

Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

<p style="text-align: right;">Page 66</p> <p>1 choice.</p> <p>2 MR. STEWART: Objection is noted.</p> <p>3 THE WITNESS: The fax is coming from</p> <p>4 where? The fax is coming from where? Page 9008,</p> <p>5 coming from USA, coming from Jim Murphy.</p> <p>6 BY MR. STEWART:</p> <p>7 Q And from that you conclude what?</p> <p>8 A Well, I conclude that it's business as</p> <p>9 usual at the time, you know.</p> <p>10 Q And what do you mean by that?</p> <p>11 A Well, you mentioned that there is no --</p> <p>12 you say that there is no mention of Belmac</p> <p>13 Corporation, no mention of Ethypharm S.A. France,</p> <p>14 but I see that it's coming from USA, and it's</p> <p>15 arriving where? In France. You've got my initials.</p> <p>16 We are still in the same system.</p> <p>17 Q So is it fair to say that your</p> <p>18 understanding -- that because this document</p> <p>19 originated -- was signed by Jim Murphy -- and let's</p> <p>20 assume -- I'm not sure, but let's assume was signed</p> <p>21 by Jim Murphy in the United States. It came from</p> <p>22 Jim Murphy in the United States, and it was received</p>	<p style="text-align: right;">Page 68</p> <p>1 reasons, we must have an entity, a legal entity in</p> <p>2 the territory of Spain with a responsible person,</p> <p>3 responsible vis-a-vis the Spanish authorities.</p> <p>4 So Jim is the president of the Spanish</p> <p>5 subsidiary. I am the president of the Spanish</p> <p>6 subsidiary. But the two bosses are the ones who do</p> <p>7 the job at the level, Jim from USA, me from Paris.</p> <p>8 I don't think that Jim has an address in Madrid. He</p> <p>9 doesn't have an apartment. He doesn't live there.</p> <p>10 His wife and children, if he has, don't live there.</p> <p>11 I live in Paris. I have no personal</p> <p>12 address in Spain. My wife, my children and now my</p> <p>13 grandchildren, all live nearby me.</p> <p>14 So we do our job of CEOs and from -- well,</p> <p>15 he does it from USA, even if he comes often to Spain</p> <p>16 and he comes to France. I do it from France even if</p> <p>17 I go to USA from time to time, and if I go to Spain</p> <p>18 from time to time.</p> <p>19 But for me, there is absolutely no</p> <p>20 ambiguity.</p> <p>21 Q Is it your belief and was it your</p> <p>22 understanding that Jim Murphy's position as</p>
<p style="text-align: right;">Page 67</p> <p>1 by you, we assume, in France, that from that you</p> <p>2 understood that this was a document coming from</p> <p>3 Belmac Corporation?</p> <p>4 A No.</p> <p>5 Q No?</p> <p>6 A Not necessarily, but the people involved</p> <p>7 are, in fact, you see them on the first page on the</p> <p>8 fax cover, that is, Jim Murphy and that is</p> <p>9 Debregeas.</p> <p>10 Q But we agreed -- we already agreed,</p> <p>11 haven't we, that Mr. Murphy has at least two hats,</p> <p>12 one, president and chairman of Belmac Corporation,</p> <p>13 and the other hat, president of Laboratorios Belmac</p> <p>14 S.A.?</p> <p>15 MR. BOSTWICK: Objection. I don't think</p> <p>16 that -- to the characterization of the testimony.</p> <p>17 BY MR. STEWART:</p> <p>18 Q Well, the witness has my question.</p> <p>19 A I think we already mentioned that a</p> <p>20 certain number of times. Jim Murphy is the boss,</p> <p>21 he's the one managing the group. I am the boss, I</p> <p>22 am the one managing the group. For unrespective</p>	<p style="text-align: right;">Page 69</p> <p>1 president of the subsidiary and president of the</p> <p>2 parent was the same as yours, president of the</p> <p>3 subsidiary, president of the parent?</p> <p>4 A Yes, and I must say that before the</p> <p>5 arrival of Jim Murphy in the -- in this whole</p> <p>6 concept, I had Mr. Perez De Ayala. And when Jim</p> <p>7 arrived, he explained to me that he was the boss,</p> <p>8 that he was going to apply the strategy of the</p> <p>9 group, that he was coming to Spain for that and</p> <p>10 somewhat, he mollified the organization in Spain.</p> <p>11 I think that Mr. Perez De Ayala was</p> <p>12 permitted to go back home and Jim, really, to cover</p> <p>13 the business from USA. And three, four, five years</p> <p>14 ago, I think that 98, 99 percent of the revenues of</p> <p>15 Belmac, which became Bentley, 98 percent were from</p> <p>16 Spain.</p> <p>17 So -- am I clear enough?</p> <p>18 Q Well, you answered my question that you</p> <p>19 considered Mr. Murphy's position as president of</p> <p>20 subsidiary and president of the parent to be</p> <p>21 equivalent to your position as president of</p> <p>22 Ethypharm Spain and president of Ethypharm; is that</p>

18 (Pages 66 to 69)

Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

<p style="text-align: right;">Page 70</p> <p>1 correct?</p> <p>2 A Yes.</p> <p>3 Q Let's turn to another document. That is</p> <p>4 the confidentiality agreement.</p> <p>5 Actually, before going on to the next</p> <p>6 document. In your discussions with Mr. Murphy, did</p> <p>7 he ever tell you that there were officers of</p> <p>8 Laboratorios Belmac who had the authority to act for</p> <p>9 the parent corporation, Belmac Corporation or</p> <p>10 Bentley as it later was known?</p> <p>11 A No, no, and that was perfectly clear for</p> <p>12 me. He was the one in charge. He was the boss.</p> <p>13 Q Okay. Did you meet, personally, any</p> <p>14 officer of Bentley other than Jim Murphy?</p> <p>15 A I don't have any souvenir. I'm sorry.</p> <p>16 Reminiscence.</p> <p>17 Q Recollection or reminiscence?</p> <p>18 A No, I don't have any recollection,</p> <p>19 although I should because there were so few people</p> <p>20 that I should remember them. But did I meet the</p> <p>21 CFO? Maybe, I'm not sure.</p> <p>22 Q Do you remember his name?</p>	<p style="text-align: right;">Page 72</p> <p>1 was doing this and that.</p> <p>2 I said, my god, this is totally wrong,</p> <p>3 misleading, unfair, dishonest. So what did I do? I</p> <p>4 wrote him a letter and had him on the phone. And I</p> <p>5 must say that Jim was very sorry about that, confirm</p> <p>6 in written that there was no ambiguity, our</p> <p>7 know-how, our machinery, our technologies were ours.</p> <p>8 And he was very sorry for that. And I don't know if</p> <p>9 it's a consequence or if it's another reason, but we</p> <p>10 never saw again Mr. Gonzalez in Belmac in Spain.</p> <p>11 So is that an answer to your question?</p> <p>12 Not precisely, but in the facts, people not</p> <p>13 representing the strategy of the company of the</p> <p>14 group of Belmac taking unfairly the business</p> <p>15 partner, the reaction of Jim was not saying oh, I'm</p> <p>16 sorry. He was permitted all the time. No, he was</p> <p>17 not permitted, nobody's permitted to go against the</p> <p>18 agreement, to go against the strategy of Bentley and</p> <p>19 I think he took, maybe, the decision of stopping the</p> <p>20 activity of Mr. Gonzalez.</p> <p>21 So for me there was really one boss. I</p> <p>22 think there was the other examples. I see that you</p>
<p style="text-align: right;">Page 71</p> <p>1 A I'm not sure. Probably my -- some of my</p> <p>2 people met him because there were discussions,</p> <p>3 financial discussions, but myself, I don't have any</p> <p>4 clear souvenir, it doesn't mean that I didn't mean</p> <p>5 they didn't meet them, but I have no recollection --</p> <p>6 sorry, I said souvenir once more.</p> <p>7 Q Did any of the people -- do you have any</p> <p>8 recollection of anyone who was an employee of</p> <p>9 Bentley ever telling you that any officer of</p> <p>10 Laboratorios Belmac had the authority to act for the</p> <p>11 parent company Bentley?</p> <p>12 MR. BOSTWICK: Can we clarify that's not</p> <p>13 referring to Mr. Murphy himself?</p> <p>14 BY MR. STEWART:</p> <p>15 Q Yes, that's correct, other than Mr.</p> <p>16 Murphy?</p> <p>17 MR. BOSTWICK: Thank you.</p> <p>18 THE WITNESS: I had a doubt one day. That</p> <p>19 was, I think, in 1999. There was an interview of</p> <p>20 Mr. Gonzalez in Spanish newspapers where Mr.</p> <p>21 Gonzalez explained himself. All the newsmen said</p> <p>22 that Belmac had developed a pelletization technique,</p>	<p style="text-align: right;">Page 73</p> <p>1 have big boxes of documents. We probably have</p> <p>2 proclivity to repesize that.</p> <p>3 Q Well, we don't have to -- let's not worry</p> <p>4 about those big boxes, those have --</p> <p>5 A I'm afraid of nothing.</p> <p>6 Q That's all for intimidation.</p> <p>7 A Yes.</p> <p>8 Q It doesn't bear any resemblance of what we</p> <p>9 have to discuss here.</p> <p>10 Just to make sure that I understand it,</p> <p>11 that at no time did any person, at least in your</p> <p>12 view, did any person, with the exception of Jim</p> <p>13 Murphy -- let me withdraw that.</p> <p>14 Excluding Jim Murphy from my question, was</p> <p>15 there any employee or officer that you understood to</p> <p>16 have been an employee or officer of Laboratorios</p> <p>17 Belmac whoever told you in substance -- I don't know</p> <p>18 if concretemet is exactly what I would say. In</p> <p>19 substance. In terms, not specifically, but in</p> <p>20 terms, that they and Laboratorios Belmac had</p> <p>21 authority to act for Bentley?</p> <p>22 MR. BOSTWICK: I'm going to object to the</p>

19 (Pages 70 to 73)

Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

<p style="text-align: right;">Page 74</p> <p>1 form of the question.</p> <p>2 THE WITNESS: Just an anecdote. I think</p> <p>3 it was in 2001 or 2002 --</p> <p>4 BY MR. STEWART:</p> <p>5 Q That is an answer to my question?</p> <p>6 A I have Mr. Irregeron in the office in the</p> <p>7 committee room in Saint-Cloud, I remember explaining</p> <p>8 to him that the situation was totally unfair and</p> <p>9 that we might consider suing, in the U.S., for this</p> <p>10 behavior. And immediately, Mr. Herrera asked for</p> <p>11 the permission to place a phone call.</p> <p>12 We left him in the room and he called Jim</p> <p>13 Murphy, so that means the only boss has always been</p> <p>14 Jim Murphy.</p> <p>15 Q Is it fair to say that if Mr. Herrera said</p> <p>16 to you that he had authority to act for Bentley, you</p> <p>17 would still want to check with Jim Murphy?</p> <p>18 A Most likely, yes.</p> <p>19 MR. BOSTWICK: Craig, we're about an hour</p> <p>20 and a half or so into it. Is a ten-minute break</p> <p>21 good for you?</p> <p>22 MR. STEWART: This is a good spot. I'm</p>	<p style="text-align: right;">Page 76</p> <p>1 free to -- if it helps you, to break the time period</p> <p>2 up into different segments, if that's more</p> <p>3 convenient.</p> <p>4 So the first question is, would you tell</p> <p>5 me, please, the people at Rimafar and then</p> <p>6 Laboratorios Belmac that you had communications with</p> <p>7 regarding the technology that was used to</p> <p>8 manufacture omeprazole or lansoprazole or other</p> <p>9 pharmaceutical products?</p> <p>10 MR. BOSTWICK: Can we clarify whether the</p> <p>11 "you" in the sentence is him personally or Ethypharm</p> <p>12 generally?</p> <p>13 BY MR. STEWART:</p> <p>14 Q I'm going to start with Mr. Debregeas</p> <p>15 personally, and then I will ask him to talk about</p> <p>16 others that, to his knowledge, had such</p> <p>17 communication.</p> <p>18 A Quite a few people I remember. Perez De</p> <p>19 Ayala until approximately '94. I remember I met Mr.</p> <p>20 Monterde, who was the plant manager.</p> <p>21 Q Can I interrupt you just a moment on Mr.</p> <p>22 Monterde when he was an employee of Rimafar before</p>
<p style="text-align: right;">Page 75</p> <p>1 going to go onto the next exhibit.</p> <p>2 MR. BOSTWICK: Just ten minutes? Is that</p> <p>3 okay with you?</p> <p>4 THE WITNESS: Yes, that's fine.</p> <p>5 MR. BOSTWICK: Okay. Off the record.</p> <p>6 THE VIDEOGRAPHER: The time is 15:49:49.</p> <p>7 Off the record.</p> <p>8 (Recess.)</p> <p>9 THE VIDEOGRAPHER: This ends tape 2 of the</p> <p>10 Debregeas deposition. The time is 16:08:46. Off</p> <p>11 the record.</p> <p>12 (Recess.)</p> <p>13 THE VIDEOGRAPHER: On the record with tape</p> <p>14 number 3 of the testimony of Mr. Patrice Debregeas</p> <p>15 in the matter of Ethypharm versus Bentley. The date</p> <p>16 is July 10, 2006. The time is 16:14:48.</p> <p>17 BY MR. STEWART:</p> <p>18 Q Mr. Debregeas, I'm going to ask you some</p> <p>19 questions which are intended to apply to a fairly</p> <p>20 substantial time period. And, really, from 1991</p> <p>21 right through the end of -- well, right through the</p> <p>22 end of 2002. And in answering these questions, feel</p>	<p style="text-align: right;">Page 77</p> <p>1 he -- before it became -- before Rimafar became Lab.</p> <p>2 Belmac?</p> <p>3 A I will say I don't remember that. I met</p> <p>4 Mr. Monterde I think twice, maybe three times in the</p> <p>5 plant in Zaragoza. I think he was the responsible</p> <p>6 pharmacist, technical director. I think he was,</p> <p>7 having all the pharmaceutical responsibility.</p> <p>8 Another person I remember is the young</p> <p>9 PharmD who was the one who received the technology</p> <p>10 transfer from Ethypharm. I remember him not from</p> <p>11 visits -- from my visits in Zaragoza, but I remember</p> <p>12 him because he became to France. It's Mr. Mateo</p> <p>13 Gasca. I remember he was a young PharmD just fresh</p> <p>14 from graduate school, and he was working with my</p> <p>15 technician, the guy I trusted most, Mr. Barnabe.</p> <p>16 Mr. Barnabe is an employee -- was an employee in</p> <p>17 France, who was Spanish by origin. I met Mr.</p> <p>18 Gonzalez, too.</p> <p>19 Q This is in connection with the technology?</p> <p>20 A Yes. Who else?</p> <p>21 Q On how many occasions did you meet Mr.</p> <p>22 Gonzalez?</p>

20 (Pages 74 to 77)

Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

<p style="text-align: right;">Page 78</p> <p>1 A Not many, not many.</p> <p>2 Q By the way, when we refer to Mr. Gonzalez,</p> <p>3 do you recognize his name to be Clemente Gonzalez</p> <p>4 Azpeitia?</p> <p>5 A Clemente Gonzalez.</p> <p>6 Q Okay.</p> <p>7 A You know, I've met so many people in my</p> <p>8 professional life. Sometimes I went to meetings.</p> <p>9 This one I know. This one I know. This one I know.</p> <p>10 I wasn't able to put a name on them. I had stacks</p> <p>11 of business cards.</p> <p>12 Q When you say the young PharmD, do you mean</p> <p>13 by that doctor in pharmacy?</p> <p>14 A Yes.</p> <p>15 Q And while, by agreement, we have -- we are</p> <p>16 not going to get into the details of the precise</p> <p>17 nature of the technology, is the technology that you</p> <p>18 had dealings with with regard to these people, do</p> <p>19 you regard that as confidential?</p> <p>20 A Let's say that the basics of this</p> <p>21 technology are well known, are described in the</p> <p>22 pharmacy books, but there are certain aspects which</p>	<p style="text-align: right;">Page 80</p> <p>1 going from ulcer, cardiology, pain management. We</p> <p>2 are one of the biggest companies in the world</p> <p>3 processing narcotics. And to process narcotics,</p> <p>4 there is a whole body of regulation, secrecy.</p> <p>5 When you work with narcotics, you have to</p> <p>6 protect the patients, but you have to protect your</p> <p>7 employees most of all. The product is not worth a</p> <p>8 lot, but you may lose your employees. And</p> <p>9 Ethypharm, I think, although it's a small company,</p> <p>10 is really one of the leaders in the world for this</p> <p>11 job, for this work.</p> <p>12 Q A leader in manufacturing narcotics?</p> <p>13 A No, developing products up to the</p> <p>14 marketing approval. Narcotics is an important part.</p> <p>15 I have a group of -- I had a group of -- well, I</p> <p>16 still have, as a shareholder, a group of extremely</p> <p>17 competent people, very devoted to the people. The</p> <p>18 company is almost 30 years old now.</p> <p>19 Q Who are the people at Ethypharm who you --</p> <p>20 who you have in mind when you say that you have a</p> <p>21 group of people who are knowledgeable in this</p> <p>22 technology?</p>
<p style="text-align: right;">Page 79</p> <p>1 are extremely confidential. And two, the technology</p> <p>2 is not only how to make the product, but it's how to</p> <p>3 make the product so that it becomes a pharmaceutical</p> <p>4 products, which would be utilized for human</p> <p>5 medicine. It's a whole set of operating</p> <p>6 procedures --</p> <p>7 Q Of?</p> <p>8 A Operating.</p> <p>9 Q Operating?</p> <p>10 A Operating procedures, documentation, QC,</p> <p>11 quality control, quality assurance, it's to all the</p> <p>12 files which are submitted to the authorities.</p> <p>13 Q All the files?</p> <p>14 A Files. All the documentation submitted to</p> <p>15 the authorities, including works done on the healthy</p> <p>16 volunteers, works done on sick patients, and all</p> <p>17 this leads to the granting of marketing approval by</p> <p>18 the different local authorities.</p> <p>19 I have said that our company has been able</p> <p>20 to register its products in about 45, 47 countries,</p> <p>21 including USA, including Japan, all over Europe and</p> <p>22 for products, different pharmacological activities</p>	<p style="text-align: right;">Page 81</p> <p>1 A Well, I think that --</p> <p>2 MR. BOSTWICK: Objection. Which</p> <p>3 technology?</p> <p>4 MR. STEWART: That he just referred to.</p> <p>5 THE WITNESS: One of the most important is</p> <p>6 Dr. Oury, Pascal Oury. I would say Mrs. Gavaille,</p> <p>7 G-a-v-o-i-l-l-e.</p> <p>8 BY MR. STEWART:</p> <p>9 Q First name?</p> <p>10 A Marcelle.</p> <p>11 Q Mrs. Marcelle?</p> <p>12 A Mrs. Marcelle Gavaille. I would say Dr.</p> <p>13 Helen Carpentier, C-a-r-p-e-n-t-i-e-r, Dr. Francois</p> <p>14 Vauzelle, V-a-u-z-e-l-l-e.</p> <p>15 Q V-a-u-l-l --</p> <p>16 A V-a-u-z-e-l-l-e. We had Mr. Eve Liorzou,</p> <p>17 L-i-o-r-z-o-u. I had a few more.</p> <p>18 Q Do you remember their names?</p> <p>19 A Let's see. In 2002, we were having</p> <p>20 about -- not far from 1000 people.</p> <p>21 Q 1000 people in France or --</p> <p>22 A Worldwide.</p>

21 (Pages 78 to 81)



Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

<p style="text-align: right;">Page 82</p> <p>1 Q Worldwide.</p> <p>2 A Right now I think that we are in the range</p> <p>3 of 850, 900 people. I had to do a massive layoff of</p> <p>4 people. I decided that in 2003, and I was permitted</p> <p>5 to do it in 2004, 135 people fired at the cost of</p> <p>6 the two shareholders of 7 million Euro. We paid</p> <p>7 from our pocket.</p> <p>8 Q 700 million?</p> <p>9 A 7 million. We paid from our pocket for</p> <p>10 that. It's not the company that paid for that. We</p> <p>11 had lost some income from some European operations.</p> <p>12 We may come back to that later. Another day,</p> <p>13 another day.</p> <p>14 Q Another day we will come back to that.</p> <p>15 A Do you want me to give you the</p> <p>16 qualification of the different people I mentioned,</p> <p>17 the other people who were involved in the tech</p> <p>18 transfer between Ethypharm and Belmac?</p> <p>19 Q If you could, briefly, starting with</p> <p>20 Pascal Oury.</p> <p>21 A Development and production.</p> <p>22 Q And to your knowledge, who would Pascal</p>	<p style="text-align: right;">Page 84</p> <p>1 A Probably.</p> <p>2 Q Do you know what positions they held at</p> <p>3 Belmac?</p> <p>4 A Not precisely, not precisely. Probably</p> <p>5 one of them was equivalent to Mateo Gasca or --</p> <p>6 maybe you know, maybe you don't.</p> <p>7 Q I'm not entirely clear. In any event,</p> <p>8 your -- you believe that Mrs. Gavaille would have</p> <p>9 spoken to her counterpart in quality assurance?</p> <p>10 A And probably generated the hiring of her</p> <p>11 counterpart. When we started working with Rimafar,</p> <p>12 it was a very simple organization. Few people --</p> <p>13 very few productions. And this last 15 years was a</p> <p>14 period when manufacturing, development and</p> <p>15 manufacturing of pharmaceutical products was</p> <p>16 considerably improved.</p> <p>17 The U.S. have the leading these</p> <p>18 improvements and the local authorities following at</p> <p>19 different levels. I must say that right now, all</p> <p>20 over Europe, the same level and the difference</p> <p>21 between the FDA and the European, the EMEA, which is</p> <p>22 the equivalent of the FDA, very close to each other.</p>
<p style="text-align: right;">Page 83</p> <p>1 Oury have discussed technology with at Laboratories</p> <p>2 Belmac?</p> <p>3 A Mr. Monterde and the technical people in</p> <p>4 Zaragoza.</p> <p>5 Q Those would be Gasca?</p> <p>6 A Yes.</p> <p>7 Q And who else?</p> <p>8 A I don't know, sorry.</p> <p>9 Q And Mrs. Marcelle, is that</p> <p>10 M-a-r-c-e-l-l-e or --</p> <p>11 A Right, Marcelle.</p> <p>12 Q Marcelle Gavaille?</p> <p>13 A Quality assurance.</p> <p>14 Q And who would she have talked to?</p> <p>15 A Her counterpart, that means most of the</p> <p>16 people at the plant because quality is not made only</p> <p>17 by one department. It's a complete concept.</p> <p>18 Q Did you ever -- have you heard the name</p> <p>19 Capodovia, Oracensio?</p> <p>20 A Yes, I heard these names.</p> <p>21 Q Did you ever speak to Mr. Capodovia or Mr.</p> <p>22 Oracensio?</p>	<p style="text-align: right;">Page 85</p> <p>1 Q Moving on to Dr. Helen Carpentier?</p> <p>2 A She's the director, the head of regulatory</p> <p>3 affairs. Her department is directing all the</p> <p>4 information, preparing the files for submission to</p> <p>5 the authorities.</p> <p>6 Q And who would she have talked to at Lab.</p> <p>7 Belmac?</p> <p>8 A I'm tempted to say to her counterpart, but</p> <p>9 I think that there was no counterpart initially, and</p> <p>10 so she managed to collect information and had the</p> <p>11 information collected probably with the help of Dr.</p> <p>12 Adolfo De Basilio who was competent in that.</p> <p>13 Q And Dr. Francois Vauzelle?</p> <p>14 A Medical director.</p> <p>15 Q And who would he have -- would you have</p> <p>16 expected him to have communication with at Lab.</p> <p>17 Belmac?</p> <p>18 A Very few people.</p> <p>19 Q Any name come to mind?</p> <p>20 A No. But I must say that Jim Murphy is</p> <p>21 someone that could apprehend the technicality of our</p> <p>22 people, of the Ethypharm people who weren't there.</p>

22 (Pages 82 to 85)

Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

<p style="text-align: right;">Page 86</p> <p>1 That was something fantastic for us. We knew we had</p> <p>2 somebody in front of us, probably it was not as good</p> <p>3 as all these individuals in their domain that was</p> <p>4 able to understand everything and to make the links</p> <p>5 between the different --</p> <p>6 Q We'll get back to Jim Murphy in just a</p> <p>7 moment. Let's go on to Eve Liorzou?</p> <p>8 A Eve Liorzou, commercial director. So</p> <p>9 considering that we had Adolfo De Basilio in Spain,</p> <p>10 Eve Liorzou was not as involved in Spain as he was</p> <p>11 involved in other countries such as Brazil or the</p> <p>12 rest of Europe, but he was involved.</p> <p>13 Q And who would Eve Liorzou communicate with</p> <p>14 at Lab. Belmac?</p> <p>15 A You know, Belmac was essentially a</p> <p>16 contract manufacturing company so they were not</p> <p>17 supposed to help us find clients.</p> <p>18 Q So can you -- is there any name of a</p> <p>19 person at Lab. Belmac that you believe Mr. Liorzou</p> <p>20 would have had regular -- would have had</p> <p>21 communications with regarding matters that you</p> <p>22 considered great secrets or confidential</p>	<p style="text-align: right;">Page 88</p> <p>1 Q Did you ever communicate with Adolfo</p> <p>2 Herrera regarding -- you personally, regarding</p> <p>3 technology or other matters that you considered to</p> <p>4 be trade secrets?</p> <p>5 A Yes.</p> <p>6 Q Would you -- what is the nature of the</p> <p>7 trade secret or technology that you had such</p> <p>8 communications with?</p> <p>9 A Keep in mind that I was a Plaintiff in</p> <p>10 this lawsuit, so I had some argument with them, few,</p> <p>11 but clear.</p> <p>12 Q Please.</p> <p>13 A Well, it's all the subject here, you know.</p> <p>14 I think that we were -- our technology was taken.</p> <p>15 Q My question is directed to that</p> <p>16 technology -- let me withdraw that.</p> <p>17 My question is directed to communications</p> <p>18 that you personally had with Adolfo Herrera</p> <p>19 regarding technology that you considered to be trade</p> <p>20 secrets. Did you have any such communications</p> <p>21 personally with Adolfo Herrera?</p> <p>22 A I think I had.</p>
<p style="text-align: right;">Page 87</p> <p>1 information?</p> <p>2 A Like I said, the secret information was</p> <p>3 coming from us.</p> <p>4 Q Right.</p> <p>5 A I don't think he had that many contacts</p> <p>6 with the people -- well, probably went there and Eve</p> <p>7 Liorzou has spent several years in Brazil. He has</p> <p>8 been in charge of our operations in Brazil for</p> <p>9 several years. He was not speaking Spanish, but he</p> <p>10 was speaking Portuguese, and I think he was able to</p> <p>11 speak what we call in France Portanule, halfway</p> <p>12 between Spanish and Portuguese.</p> <p>13 Q I'm not asking you -- understand, I'm not</p> <p>14 asking you to speculate. If you have a memory of</p> <p>15 people that Eve Liorzou spoke with, I would like</p> <p>16 your best memory.</p> <p>17 A No, I'm sorry, I have no specific memory.</p> <p>18 Q Now --</p> <p>19 A The other thing I would add is that all of</p> <p>20 these people have been with the company for a</p> <p>21 minimum of ten years, maybe 15, some of them 20, 25</p> <p>22 years, so they're all excellent professionals.</p>	<p style="text-align: right;">Page 89</p> <p>1 Q And can you describe to me the nature of</p> <p>2 the technology that was -- that you believe to be</p> <p>3 trade secrets in those communications?</p> <p>4 MR. BOSTWICK: I'm going to object to</p> <p>5 that. I thought that that was just the definition,</p> <p>6 the attempt to define specifically the trade secrets</p> <p>7 was what we were going to stay away from at this</p> <p>8 phase.</p> <p>9 MR. STEWART: I'm not looking -- true, but</p> <p>10 there's a fine line between a -- sort of the next</p> <p>11 level down from simply something floating out there</p> <p>12 which is defined as a trade secret to something</p> <p>13 which is a trade secret concerning manufacturing, a</p> <p>14 trade secret concerning formulation, a trade secret</p> <p>15 concerning some other category. I'm looking for</p> <p>16 some -- if this witness can provide it, some --</p> <p>17 something with a little more definition than simply</p> <p>18 yes, there were.</p> <p>19 I'm not -- as I've explained before in our</p> <p>20 conversations, it's not my intention to drill down,</p> <p>21 but just so that I can focus on this, so that I can</p> <p>22 have some sense as to the -- as to the -- well, as</p>

23 (Pages 86 to 89)

Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

<p style="text-align: right;">Page 90</p> <p>1 to what was received so that I can then proceed with</p> <p>2 my questions pertaining to authority and so forth.</p> <p>3 MR. BOSTWICK: We've been specific in our</p> <p>4 responses about micropellet technology, and, you</p> <p>5 know, to the extent that you want to ask him about,</p> <p>6 you know, micropellet technology and the customer</p> <p>7 lists or manufacturing protocols or what have you,</p> <p>8 but I thought it was a communications you were going</p> <p>9 to ask for, not the definitions.</p> <p>10 MR. STEWART: That's true. I'll take that</p> <p>11 suggestion.</p> <p>12 BY MR. STEWART:</p> <p>13 Q Did you have --</p> <p>14 THE WITNESS: I'm getting a bit excited,</p> <p>15 so I want this young lady to translate. I want to</p> <p>16 be sure, though, what you're -- I want to make sure</p> <p>17 that your question is perfectly understood by you so</p> <p>18 that you can forward it to me.</p> <p>19 BY MR. STEWART:</p> <p>20 Q Did you have communications with Mr.</p> <p>21 Herrera regarding micropellet technology?</p> <p>22 A The big question is what is the definition</p>	<p style="text-align: right;">Page 92</p> <p>1 A Yes.</p> <p>2 Q Yes.</p> <p>3 A When a judge was designated by the court</p> <p>4 in Zaragoza to inspect the work done by Laboratorios</p> <p>5 Belmac in its facility and see if it was different</p> <p>6 from what we were doing, and when the judge and the</p> <p>7 experts seizing products and fines, found that it</p> <p>8 was exactly our technology, in that case, more</p> <p>9 limited part. That means compounding QC, QA.</p> <p>10 That struck me. I'm convinced that's</p> <p>11 still the case. So that means that technology,</p> <p>12 trade secrets, technology, trade secrets that we</p> <p>13 brought to Belmac are real because two, three, four</p> <p>14 years after the end of the agreement, I'm convinced</p> <p>15 that Belmac is still working according to all our</p> <p>16 information, technique, training, education, fines.</p> <p>17 Which means it's a kind of way of explaining that</p> <p>18 all what we communicated to Belmac was extremely</p> <p>19 valuable.</p> <p>20 Q Tell me the people at Bentley</p> <p>21 Pharmaceuticals, Inc., or its -- the -- its</p> <p>22 predecessor name, Belmac Corporation in the U.S.,</p>
<p style="text-align: right;">Page 91</p> <p>1 of the technology? I think I explained already that</p> <p>2 it does not concern simply the fact of putting</p> <p>3 product in a coating pile and making coats. It's</p> <p>4 all the quality assurance procedures, the quality</p> <p>5 control, the files, the stability stories. It's</p> <p>6 complete set. It's not simply compounding the</p> <p>7 product. So it's much wider than what could be</p> <p>8 understood as being the technology. It's really</p> <p>9 what you would call, probably, trade secrets.</p> <p>10 You see, for example, I have been</p> <p>11 extremely upset when I saw in November, I think it</p> <p>12 was November 2001 that Bentley was communicating</p> <p>13 that they had filed several patents concerning the</p> <p>14 products that were the activity of Ethypharm, new</p> <p>15 patents of omeprazole. When we looked at the</p> <p>16 patents, we saw that they were just copies of our</p> <p>17 patents.</p> <p>18 When we obtained that the judge in</p> <p>19 Zaragoza visit the plant of Bentley -- Belmac, I'm</p> <p>20 sorry, but Bentley, you understand me.</p> <p>21 Q When you visited -- was the facility that</p> <p>22 was run by Lab. Belmac in Zaragoza?</p>	<p style="text-align: right;">Page 93</p> <p>1 that you personally had contact with regarding</p> <p>2 technology or trade secrets.</p> <p>3 A I would say essentially Jim Murphy. For</p> <p>4 simplicity, too because --</p> <p>5 Q I'm sorry, who?</p> <p>6 A For simplicity because he understands. He</p> <p>7 knows -- he already knew and understood everything.</p> <p>8 Q Any other person in addition to Mr.</p> <p>9 Murphy?</p> <p>10 A Well, Perez De Ayala was not a technician.</p> <p>11 Q I'm talking now employees --</p> <p>12 A Of the headquarters.</p> <p>13 Q Of the headquarters of the parent company?</p> <p>14 A No.</p> <p>15 Q Murphy was the only one?</p> <p>16 A Yeah. I'm not even sure that I met the</p> <p>17 CFO. I think I did, but you could show me 10</p> <p>18 people, one of them being or not being him, I would</p> <p>19 be unable to --</p> <p>20 Q But in any event, you don't have any</p> <p>21 recollection?</p> <p>22 A No.</p>

24 (Pages 90 to 93)

Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

<p style="text-align: right;">Page 94</p> <p>1 Q Of discussing technological issues or</p> <p>2 other matters that you considered to be trade</p> <p>3 secrets?</p> <p>4 A With all the people in --</p> <p>5 MR. STEWART: Yeah, with other people.</p> <p>6 THE WITNESS: No, no. I must add that</p> <p>7 I've always been working from 8:30 a.m. until 9 p.m.</p> <p>8 every day. We're a small company. We set up that</p> <p>9 the company was my partner Gerard Leduc in '77. We</p> <p>10 were joined almost immediately by my wife. She's a</p> <p>11 university graduate advanced in pharmacy. She's a</p> <p>12 pharmacologist. She worked with us considerably.</p> <p>13 She took over all the medical,</p> <p>14 pharmacokinetic, all the scientific part of the</p> <p>15 work. She left the company in 2000 and we really</p> <p>16 began -- remember that the shared capital and all</p> <p>17 the money that we would invest at that time was</p> <p>18 \$4000 U.S. dollars. We developed the company with a</p> <p>19 lot of hard work, never took any money out of the</p> <p>20 company. We invested everything, and it's a</p> <p>21 fantastic story. Maybe not ending very well, but a</p> <p>22 fantastic story.</p> <p style="text-align: right;">Page 95</p> <p>1 BY MR. STEWART:</p> <p>2 Q What is your wife's name?</p> <p>3 A Bernadette.</p> <p>4 Q Is she with the company now?</p> <p>5 A She left in 2000. She gave me four</p> <p>6 children. And one of them is a PharmD. The others</p> <p>7 are lawyers.</p> <p>8 (Laughter.)</p> <p>9 Q Well, congratulations as to some and my</p> <p>10 commiserations with respect to the others.</p> <p>11 Who at Laboratorios Belmac did you have</p> <p>12 communications with regarding the financial</p> <p>13 arrangements regarding the purchase of omeprazole?</p> <p>14 A I had no contact myself regarding the</p> <p>15 financial part. This was handled by Eric Igonet,</p> <p>16 our CFO. The acquisition effective ingredients,</p> <p>17 omeprazole, which took place with company Uquifa in</p> <p>18 Barcelona, U-q-u-i-f-a, which is a subsidiary of a</p> <p>19 British company. It's Holiday Holdings or something</p> <p>20 like that.</p> <p>21 Q Of?</p> <p>22 A At one time it was the mother company.</p>	<p style="text-align: right;">Page 96</p> <p>1 The British mother company was, I think, Holiday</p> <p>2 Holdings. But that was a significant purchase</p> <p>3 because the -- initially we paid the active</p> <p>4 ingredient \$2000 per kilo. Later the price</p> <p>5 decreased slightly, but that was -- and I must say</p> <p>6 that these discussions were handled by my partner,</p> <p>7 Gerard Leduc.</p> <p>8 Gerard Leduc is a chemical engineer, very</p> <p>9 competent in chemistry. He's a patent attorney too</p> <p>10 because in the pharmaceutical industry, at least in</p> <p>11 Europe, you always have to be extremely careful with</p> <p>12 intellectual property patents, and omeprazole was a</p> <p>13 very sensitive issue.</p> <p>14 Q Mr. Debregeas, would you describe the</p> <p>15 financial arrangements between Laboratorios Belmac</p> <p>16 and Ethypharm in the period from 1995 through March</p> <p>17 of 2002.</p> <p>18 MR. BOSTWICK: Objection; vague.</p> <p>19 THE WITNESS: Well, the question is vague</p> <p>20 and the situation was very complex. In the sense</p> <p>21 that Belmac was receiving the active ingredient from</p> <p>22 us, Belmac, if I remember well, was buying the</p> <p style="text-align: right;">Page 97</p> <p>1 inactive ingredients, was doing the work. We were</p> <p>2 renting space at Belmac. We were paying a fee for</p> <p>3 the use of the employees. It was very complex, but</p> <p>4 extremely profitable for both companies.</p> <p>5 BY MR. STEWART:</p> <p>6 Q Let me break that down. Ethypharm, is</p> <p>7 it -- so is it true that Ethypharm would provide</p> <p>8 the -- I will use the term API?</p> <p>9 A Exactly.</p> <p>10 Q Would provide the API to Belmac; is that</p> <p>11 right?</p> <p>12 A Yes.</p> <p>13 MR. BOSTWICK: Can we just define API,</p> <p>14 just so we all have a shared understanding?</p> <p>15 MR. STEWART: Active pharmaceutical</p> <p>16 ingredient.</p> <p>17 MR. BOSTWICK: Right, just for the record.</p> <p>18 MR. STEWART: Right.</p> <p>19 BY MR. STEWART:</p> <p>20 Q Would Belmac pay anything to Ethypharm for</p> <p>21 the API?</p> <p>22 A In the time it happened that Belmac had</p>
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25 (Pages 94 to 97)



Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

<p style="text-align: right;">Page 98</p> <p>1 its own omeprazole product on the Spanish market.</p> <p>2 So that means that Belmac would have purchased from</p> <p>3 Ethypharm the capsules containing the work of</p> <p>4 Ethypharm, the work of Belmac, the rental of the</p> <p>5 facility, extremely complex. But quite logical, you</p> <p>6 know. But it's a bit complex.</p> <p>7 But that led to a very successful</p> <p>8 marketing of omeprazole by Belmac, but Davur, and</p> <p>9 probably a third trademark of Belmac. I think that</p> <p>10 you must be having all this information. It's very</p> <p>11 technical.</p> <p>12 Q Well, what I want to do is first</p> <p>13 understand -- I think maybe the way to do this is</p> <p>14 first to understand what work Belmac did and what</p> <p>15 monies Belmac received from Ethypharm for that work.</p> <p>16 Can we start with that?</p> <p>17 A So Belmac was essentially supplying to</p> <p>18 Ethypharm work, production and QC, QA. And Belmac</p> <p>19 was --</p> <p>20 Q And space?</p> <p>21 A Space.</p> <p>22 Q Okay.</p>	<p style="text-align: right;">Page 100</p> <p>1 don't think so finally.</p> <p>2 It was envisioned but I don't think it was</p> <p>3 long. There was also the nitrate, aspirin and a few</p> <p>4 other products.</p> <p>5 BY MR. STEWART:</p> <p>6 Q Okay. And the financial details of the</p> <p>7 monies that Ethypharm paid to Belmac and the money</p> <p>8 that Ethypharm received from Belmac, who were -- who</p> <p>9 handled those details?</p> <p>10 A Adolfo De Basilio, under the</p> <p>11 supervision -- under the supervision of Mr. Igonet,</p> <p>12 I-g-o-n-e-t, the group CFO, group chief financial</p> <p>13 officer.</p> <p>14 Q And who did Mr. De Basilio deal with at</p> <p>15 Laboratorios Belmac?</p> <p>16 MR. BOSTWICK: Objection; form.</p> <p>17 THE WITNESS: I don't know.</p> <p>18 BY MR. STEWART:</p> <p>19 Q I'm sorry?</p> <p>20 A I don't know.</p> <p>21 Q Did Mr. De Basilio deal with anyone at</p> <p>22 Bentley Pharmaceuticals with respect to these</p>
<p style="text-align: right;">Page 99</p> <p>1 A Probably buying the inactive ingredients,</p> <p>2 too, but it was a small thing. Ethypharm was paying</p> <p>3 for this contract manufacturing, was paying for the</p> <p>4 space, the rental, paying for the inactive</p> <p>5 ingredients, paying for the -- what was needed. And</p> <p>6 that was leading to an amount of pesetas per</p> <p>7 thousand capsules. Pesetas was the local currency</p> <p>8 of Spain before the Euro.</p> <p>9 THE INTERPRETER: P-e-s-e-t-a-s.</p> <p>10 THE WITNESS: That was for the general</p> <p>11 work. And then there was a resale of the product by</p> <p>12 Ethypharm to Belmac for its own use, for the</p> <p>13 Belmazol, for the omeprazole Davur -- and I think</p> <p>14 there was a third one, maybe. I don't remember</p> <p>15 exactly.</p> <p>16 So it seems to be complex, but, in fact,</p> <p>17 it was quite clear. And we agreed there were</p> <p>18 discussions each year. Omeprazole was not the only</p> <p>19 product produced at the Belmac facility. You had</p> <p>20 lansoprazole, you had all the products that we</p> <p>21 mentioned before, such as theophylline, vincamine.</p> <p>22 I don't know if nitroglycerin was produced there. I</p>	<p style="text-align: right;">Page 101</p> <p>1 financial arrangements?</p> <p>2 A I don't know. I think he probably</p> <p>3 discussed with Jim Murphy -- but keep in mind, we're</p> <p>4 in Spain with the VAT, the value-added tax, with the</p> <p>5 complex system, system which became more and more, I</p> <p>6 would say, simple with the years. But, you know,</p> <p>7 all these European countries had big changes right</p> <p>8 at that time.</p> <p>9 Q Let me ask you this question, though. You</p> <p>10 mentioned that Adolfo De Basilio probably talked</p> <p>11 with Jim Murphy. You don't know of your own</p> <p>12 knowledge that he had talked with Jim Murphy, do</p> <p>13 you?</p> <p>14 A Oh, no, I know he did.</p> <p>15 Q He did?</p> <p>16 A Oh, no, I know he did, yes.</p> <p>17 Q How do you know that?</p> <p>18 A Jim was quite often in Spain at the time,</p> <p>19 and I think that I remember that Jim had esteem for</p> <p>20 Adolfo.</p> <p>21 Q Is it your testimony that Jim Murphy</p> <p>22 negotiated the financial terms between Laboratorios</p>

26 (Pages 98 to 101)

Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

<p style="text-align: right;">Page 102</p> <p>1 Belmac and Ethypharm?</p> <p>2 A Was he the only negotiator? I don't think</p> <p>3 so. Finances are something extremely important.</p> <p>4 The weight of Spain in the economy of the Belmac</p> <p>5 group or Bentley is fantastic. So he was involved.</p> <p>6 Q How do you know he was involved?</p> <p>7 A You're the chairman --</p> <p>8 Q How do you know he was involved?</p> <p>9 MR. BOSTWICK: Objection. If he's going</p> <p>10 to answer the question, you can't cut him off.</p> <p>11 MR. STEWART: I was trying to direct him</p> <p>12 to the -- to how he knows, not --</p> <p>13 MR. BOSTWICK: That's --</p> <p>14 MR. STEWART: I apologize.</p> <p>15 MR. BOSTWICK: That proves the objection.</p> <p>16 BY MR. STEWART:</p> <p>17 Q How do you know?</p> <p>18 A Well, we talked money with Jim Murphy too,</p> <p>19 but, hey, you're in charge of a company. You're not</p> <p>20 going to be concerned with what is the most</p> <p>21 important in terms of moneymaking of your company,</p> <p>22 even if you're a PHD, even if you're a lawyer.</p>	<p style="text-align: right;">Page 104</p> <p>1 completed pharmaceutical products it was selling to</p> <p>2 Belmac?</p> <p>3 A I just replied to that saying that I did</p> <p>4 not personally negotiate, but I was permanently</p> <p>5 aware and informed, and I gave my opinion to my</p> <p>6 people.</p> <p>7 Q And who do you say was negotiating on the</p> <p>8 issue of price with Jim Murphy from Ethypharm?</p> <p>9 A As I said before, Adolfo De Basilio, under</p> <p>10 instructions and with the support of Mr. Igonet, our</p> <p>11 CFO. So the discussion was not made by eve Liorzou,</p> <p>12 the commercial director, but made by, in fact, the</p> <p>13 CFO of the group because it was important.</p> <p>14 Q Did Mr. De Basilio, under the instructions</p> <p>15 and with the supervision of Mr. Igonet, negotiate</p> <p>16 with anyone else, any other person than Mr. Murphy?</p> <p>17 A If Mr. Murphy had told him to see another</p> <p>18 person in his group, probably, yes. See, we are</p> <p>19 going back to the organization of a company, you</p> <p>20 know. You have people at the top who are supposed</p> <p>21 to take responsibilities and risks, and you have</p> <p>22 people at different levels who take the</p>
<p style="text-align: right;">Page 103</p> <p>1 Money is what permits you to live, to have the</p> <p>2 company, to live. And Jim, to my knowledge, is</p> <p>3 somebody who is perfectly knowledgeable in terms of</p> <p>4 finance.</p> <p>5 Jim was quite often making roadshows in</p> <p>6 the U.S. to raise money, so you don't raise money</p> <p>7 just showing your face or explaining how bright your</p> <p>8 company is. You have to give the financial. So he</p> <p>9 was very competent. I think he still is very</p> <p>10 competent in finance.</p> <p>11 Q Mr. Debregeas, I truly did not ask you for</p> <p>12 your opinion on Jim Murphy's competence in financial</p> <p>13 matters. But I know that Jim would appreciate you</p> <p>14 kind words.</p> <p>15 Let me try it this way. Did you ever</p> <p>16 negotiate the terms of the price between</p> <p>17 Laboratorios Belmac and Ethypharm regarding how much</p> <p>18 Ethypharm would pay per 1000 capsules?</p> <p>19 A Did I negotiate myself? No. Was I</p> <p>20 permanently informed about these conditions? Yes.</p> <p>21 Q Did you ever personally negotiate the</p> <p>22 price that Ethypharm would charge Belmac for the</p>	<p style="text-align: right;">Page 105</p> <p>1 responsibilities under the supervision of the</p> <p>2 responsible person.</p> <p>3 Q Do you know the names of anyone at</p> <p>4 Laboratorios Belmac that Mr. De Basilio negotiated</p> <p>5 the price terms with?</p> <p>6 A No, and I would not say not my problem.</p> <p>7 Q That would be Mr. Leduc?</p> <p>8 A Maybe Mr. Leduc had some discussion, yeah,</p> <p>9 because he's very competent moneywise, not only</p> <p>10 chemistry and intellectual property, but money too.</p> <p>11 Q But you, -- you can't tell me -- is it so</p> <p>12 that you cannot tell me who, other than Mr. Murphy,</p> <p>13 Mr. De Basilio negotiated price terms with at Lab.</p> <p>14 Belmac?</p> <p>15 A The question is, in fact, who, apart from</p> <p>16 Jim Murphy, who was negotiating the prices with</p> <p>17 Ethypharm. Is that your question?</p> <p>18 Q Yes.</p> <p>19 A Yeah. I don't know. I don't know.</p> <p>20 Q And from the side of Ethypharm, it was De</p> <p>21 Basilio under the supervision of Igonet, that you</p> <p>22 know?</p>

27 (Pages 102 to 105)

Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

<p style="text-align: right;">Page 106</p> <p>1 A I would say of Igonet, and probably Leduc,</p> <p>2 Gerard Leduc.</p> <p>3 Q And --</p> <p>4 A Gerard Leduc was negotiating the API with</p> <p>5 Uquifa, or he was extremely competent in that</p> <p>6 negotiation.</p> <p>7 Q Were the terms of sale between Ethypharm</p> <p>8 and Belmac and Belmac and Ethypharm your</p> <p>9 responsibility?</p> <p>10 A No, not my responsibility as long as it</p> <p>11 was within the objectives of the company.</p> <p>12 MR. BOSTWICK: I'm trying to interpose, I</p> <p>13 just object on vagueness.</p> <p>14 THE WITNESS: I must say that if there was</p> <p>15 a need to extend the payment terms on one side or</p> <p>16 the other, I was consulted. There was a time when</p> <p>17 we owed money to Belmac like -- and I gave my okay.</p> <p>18 If everything is according to the rules, I don't</p> <p>19 have to interfere.</p> <p>20 MR. STEWART: Can we go off the record for</p> <p>21 a moment?</p> <p>22 THE VIDEOGRAPHER: The time is 17:12:29.</p>	<p style="text-align: right;">Page 108</p> <p>1 THE WITNESS: I assume he was able to</p> <p>2 negotiate, but I was never involved with him in the</p> <p>3 negotiation.</p> <p>4 BY MR. STEWART:</p> <p>5 Q And was Mr. Adolfo Herrera ever involved</p> <p>6 in negotiating the financial terms between Ethypharm</p> <p>7 and Laboratorios Belmac?</p> <p>8 MR. BOSTWICK: Same objection.</p> <p>9 THE WITNESS: Probably. Probably, yes.</p> <p>10 BY MR. STEWART:</p> <p>11 Q Now, did Ethypharm ever give its customer</p> <p>12 lists -- any customer lists to Laboratorios Belmac?</p> <p>13 A You mean in Spain, clients, customers in</p> <p>14 Spain?</p> <p>15 Q Yes.</p> <p>16 A Obviously, obviously Belmac was knowing</p> <p>17 the names of the clients. They were producing for</p> <p>18 these clients on our behalf, and the clients would</p> <p>19 look at their title to come and inspect the facility</p> <p>20 to make sure that production was according to the</p> <p>21 rules.</p> <p>22 Q And to whom at Laboratorios Belmac were</p>
<p style="text-align: right;">Page 107</p> <p>1 Off the record.</p> <p>2 (Recess.)</p> <p>3 THE VIDEOGRAPHER: On the record. The</p> <p>4 time is 17:36:41.</p> <p>5 BY MR. STEWART:</p> <p>6 Q Mr. Debregeas, was Mr. Perez De Ayala ever</p> <p>7 involved in negotiating or setting financial terms</p> <p>8 between Ethypharm and Laboratorios Belmac?</p> <p>9 A Yes, he was.</p> <p>10 Q And Mr. Perez De Ayala was the general</p> <p>11 manager of Laboratorios Belmac for a time; isn't</p> <p>12 that correct?</p> <p>13 A Yes, but as I said, you know, we heard</p> <p>14 about a change of name from Rimafar to Belmac.</p> <p>15 That's all what we knew, really, of Belmac until Jim</p> <p>16 Murphy came, joined and explained who he was, what</p> <p>17 he was going to do.</p> <p>18 Q And was Mr. Clemente Gonzalez Azpeitia</p> <p>19 involved in setting financial terms or negotiating</p> <p>20 financial terms between Ethypharm and Laboratorios</p> <p>21 Belmac?</p> <p>22 MR. BOSTWICK: Objection; vague.</p>	<p style="text-align: right;">Page 109</p> <p>1 these customer lists provided?</p> <p>2 A It must have been given by Adolfo De</p> <p>3 Basilio to, I would say, most people in the top of</p> <p>4 the hierarchy. These people were supposed to</p> <p>5 receive questions, inquiries and -- from our</p> <p>6 clients.</p> <p>7 See, producing aspirin for a Spanish</p> <p>8 clients means that the products were labeled with</p> <p>9 for client XYZ. And client XYZ was perfectly</p> <p>10 entitled to call and come and visit. And sometimes,</p> <p>11 not really assist in the production, but have a</p> <p>12 review of all the files concerning his product.</p> <p>13 Q They would have the right to come to the</p> <p>14 facility in Zaragoza?</p> <p>15 A Oh, yes, having a reasonable notice and so</p> <p>16 on.</p> <p>17 Q Would they then speak to such people as</p> <p>18 the director of quality assurance?</p> <p>19 A Yes.</p> <p>20 Q Would they speak to the plant manager?</p> <p>21 A Yes.</p> <p>22 Q Now, did Ethypharm ever provide these</p>

28 (Pages 106 to 109)

Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

<p style="text-align: right;">Page 110</p> <p>1 customer lists to anyone at Bentley Pharmaceuticals</p> <p>2 or its previous name, Belmac Corporation in the</p> <p>3 United States?</p> <p>4 A How many people were working with Bentley</p> <p>5 in the U.S.? Four or five? So it's limited, you</p> <p>6 know, the number of people we could give this</p> <p>7 information. So obviously Jim Murphy had at least,</p> <p>8 you know, it's normal -- because his responsibility</p> <p>9 as producer was involved.</p> <p>10 Q So your testimony is that Jim Murphy had</p> <p>11 that list?</p> <p>12 A Obviously.</p> <p>13 Q And Jim Murphy, we've agreed that he was,</p> <p>14 in addition to being president and CEO of Bentley,</p> <p>15 he was also the president of Laboratorios Belmac;</p> <p>16 correct?</p> <p>17 A I don't know if it's the tenth time that</p> <p>18 you asked this question. Excuse me, I think I heard</p> <p>19 this question about five or six times before, not</p> <p>20 ten times.</p> <p>21 Q You would expect the president of</p> <p>22 Laboratorios Belmac to have that list, would you</p>	<p style="text-align: right;">Page 112</p> <p>1 Q And we can agree that there were no</p> <p>2 manufacturing facilities at Bentley in the United</p> <p>3 States that were producing any Ethypharm</p> <p>4 pharmaceutical products; correct?</p> <p>5 A Can you please repeat your question? I'm</p> <p>6 not sure of your translation. So it's either you or</p> <p>7 me that's wrong.</p> <p>8 THE INTERPRETER: I'm sorry.</p> <p>9 MR. STEWART: Can I have my question back?</p> <p>10 (The reporter read the record as</p> <p>11 requested.)</p> <p>12 THE WITNESS: To my knowledge, there is no</p> <p>13 Bentley pharmaceutical factory in the U.S. that was</p> <p>14 involved in the production of the Ethypharm</p> <p>15 products. That's corresponding to your question.</p> <p>16 BY MR. STEWART:</p> <p>17 Q That's correct. That's right.</p> <p>18 Now, there were, from time to time, direct</p> <p>19 communications between Laboratorios Belmac and</p> <p>20 Ethypharm customers; correct? Is that correct?</p> <p>21 A Can you repeat, please?</p> <p>22 THE INTERPRETER: Yes, please, I'm sorry.</p>
<p style="text-align: right;">Page 111</p> <p>1 not?</p> <p>2 A Of course, it's logical.</p> <p>3 Q Yes, was there --</p> <p>4 A And the president of Bentley too, I think</p> <p>5 it's logical too.</p> <p>6 Q Other than Jim Murphy, is there any person</p> <p>7 that you can tell me had this list of customers at</p> <p>8 Bentley?</p> <p>9 A For sure the financial director, the CFO,</p> <p>10 must have had it. But this list is not</p> <p>11 confidential. The products are on the market. It's</p> <p>12 mentioned on the box, marketed by company XYZ,</p> <p>13 manufactured by Belmac or Rimafar. And maybe even</p> <p>14 under license from Ethypharm.</p> <p>15 So it's not confidential, you know.</p> <p>16 Customer protection, you know, you have to know who</p> <p>17 produce, was responsible for the different levels.</p> <p>18 That's compliant with the load.</p> <p>19 Q Are you aware of any Ethypharm customer</p> <p>20 who ever traveled to the U.S. to speak to Mr. Murphy</p> <p>21 or to the CFO of Bentley?</p> <p>22 A No, no. I'm not aware of that, honestly.</p>	<p style="text-align: right;">Page 113</p> <p>1 MR. STEWART: Maybe I should pay closer</p> <p>2 attention.</p> <p>3 THE WITNESS: No, it's an important</p> <p>4 question.</p> <p>5 BY MR. STEWART:</p> <p>6 Q Were there -- let me withdraw. Let me</p> <p>7 start again.</p> <p>8 To your knowledge, were there any direct</p> <p>9 communications between Ethypharm customers and Mr.</p> <p>10 Murphy?</p> <p>11 A There could have been. There was -- I</p> <p>12 would have absolutely no objection.</p> <p>13 Q That's not my question. Are you aware of</p> <p>14 any communications between Ethypharm customers and</p> <p>15 Mr. Murphy?</p> <p>16 MR. BOSTWICK: That he recalls?</p> <p>17 MR. STEWART: Yes.</p> <p>18 THE WITNESS: I don't recall any of these,</p> <p>19 but this would not have been shocking at all. This</p> <p>20 would have been totally acceptable, and I would not</p> <p>21 have seen anything wrong in that. It was normal.</p> <p>22 It would have been normal.</p>

29 (Pages 110 to 113)



Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

<p style="text-align: right;">Page 114</p> <p>1 BY MR. STEWART:</p> <p>2 Q You do not remember any such</p> <p>3 communications; is that correct?</p> <p>4 A I know, but Mr. Murphy had contact with</p> <p>5 our clients. Which one, I don't know, maybe all of</p> <p>6 them, maybe only two or three. But normally, he was</p> <p>7 producing for us -- he was producing for these</p> <p>8 people through us, you see, through the agreement</p> <p>9 that we had together, so normal. And I would, on a</p> <p>10 certain point of view, even have incorrect stats,</p> <p>11 you know.</p> <p>12 BY MR. STEWART:</p> <p>13 Q Tell me the name of any client that you</p> <p>14 remember contacting Jim Murphy directly.</p> <p>15 A I just told you that I am not aware of any</p> <p>16 of them contacting him directly.</p> <p>17 Q Thank you.</p> <p>18 A I cannot tell you a name, but it would</p> <p>19 have been normal, you know.</p> <p>20 MR. STEWART: I think this is the good</p> <p>21 spot for us to stop.</p> <p>22 MR. BOSTWICK: 9:00 tomorrow would be a</p>	<p style="text-align: right;">Page 116</p> <p>1 I HEREBY CERTIFY that I have read this</p> <p>2 transcript of my deposition and that this transcript</p> <p>3 accurately states the testimony given by me, with</p> <p>4 the changes or corrections, if any, as noted.</p> <p>5</p> <p>6</p> <p>7 X</p> <p>8</p> <p>9</p> <p>10</p> <p>11 Subscribed and sworn to before me this day of</p> <p>12 , 20 .</p> <p>13</p> <p>14</p> <p>15</p> <p>16 X</p> <p>17 Notary Public</p> <p>18</p> <p>19</p> <p>20</p> <p>21 My commission expires:</p> <p>22</p>
<p style="text-align: right;">Page 115</p> <p>1 good --</p> <p>2 Let's go off the record.</p> <p>3 THE VIDEOGRAPHER: This ends tape number 3</p> <p>4 and concludes volume 1 of the testimony of Mr.</p> <p>5 Patrice Debregeas in the matter of Ethypharm versus</p> <p>6 Bentley. The date is July 10, 2006. The time is</p> <p>7 17:51:35. Off the record.</p> <p>8 (Whereupon, at 5:51 p.m., the deposition</p> <p>9 was recessed to be reconvened at 9:00 a.m., July 11,</p> <p>10 2006.)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 117</p> <p>1 CONTENTS</p> <p>2</p> <p>3 WITNESS EXAMINATION</p> <p>4 PATRICE DEBREGEAS</p> <p>5 by Mr. Stewart 4</p> <p>6</p> <p>7</p> <p>8</p> <p>9 EXHIBITS</p> <p>10</p> <p>11 EXHIBIT NUMBER IDENTIFIED</p> <p>12</p> <p>13 Debregeas Exhibit 2 5</p> <p>14 Debregeas Exhibit 3 12</p> <p>15 Debregeas Exhibit 4 12</p> <p>16 Debregeas Exhibit 5 20</p> <p>17 Debregeas Exhibit 6 28</p> <p>18 Debregeas Exhibit 7 35</p> <p>19 Debregeas Exhibit 8 43</p> <p>20 Debregeas Exhibit 9 45</p> <p>21 Debregeas Exhibit 10 56</p> <p>22</p>

30 (Pages 114 to 117)

Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

Page 118

A				B
able 6:3 24:17	Adolfo 12:2 85:12	Angell 2:12	110:18	B 117:9
78:10 79:19 86:4	86:9 88:1,18,21	Anglo-Saxon 25:4	asking 4:13 10:6	Baach 2:4 3:6
87:10 108:1	100:10 101:10,20	another 26:21 28:9	20:18 51:16,17	back 4:11 20:7 38:3
Abogados 48:13	104:9 108:5	60:10 70:3 72:9	51:18 64:4 87:13	53:2 59:8 60:16
about 5:11 14:8	109:2	77:8 82:12,13,14	87:14	60:20 62:6,7,16
15:22 16:2 18:15	adopt 21:14	104:17	Asociados 48:13	69:12 82:12,14
23:13 26:20 29:4	advanced 94:11	answer 7:1 9:5 28:1	aspects 39:7 78:22	86:6 104:19
31:21 32:3 33:15	affairs 85:3	29:6,7 36:20,20	aspirin 100:3 109:7	112:9
40:15,20,21 41:5	afraid 73:5	37:4 59:8 63:21	assist 109:11	balanced 52:3
47:14,15 56:2,3	after 30:11 50:22	72:11 74:5	assistance 21:16	bands 14:7
63:9 64:13 72:5	92:14	102:10	assume 52:13 55:2	Barcelona 95:18
73:4 74:19 76:15	afternoon 33:1,13	answered 6:21	55:3 66:20,20	Barnabe 77:15,16
79:20 81:20 90:4	33:14	36:11 69:18	67:1 108:1	based 46:2 49:12
90:5 103:20	again 12:17 72:10	answering 75:22	assurance 22:13,13	49:13
107:14 110:19	113:7	answers 42:21	36:16 79:11	basics 78:20
ABREU 2:11	against 72:17,18	anyone 6:6 10:21	83:13 84:9 91:4	Basilio 5:3,11,14
absolutely 8:18	ago 9:4 17:9 40:5	anyone 71:8 100:21	109:18	8:20 9:1,13 11:15
23:17 52:10	42:7 63:22 69:14	104:16 105:3	Astra 40:19	11:17 12:2,16,18
68:19 113:12	agree 26:2,12,13	110:1	attached 13:6 16:6	13:5,7,14 14:1
accept 11:7,22	48:15 54:20	anything 41:6	21:13 28:11,19	16:3,7 28:11
acceptable 43:4	55:15,18,20 56:1	97:20 113:21	29:15 45:12	44:12 85:12 86:9
113:20	56:14 61:13,20	anyway 37:9	48:15 60:8	100:10,14,21
access 6:6	61:22 65:10,15	apart 22:12 105:15	attaching 16:4	101:10 104:9,14
according 17:4	112:1	apartment 68:9	attempt 89:6	105:4,13,21
39:3,21 42:9	agreed 26:7,11,11	API 97:8,10,13,21	attention 60:7 61:3	109:3
50:16 58:3 92:15	26:11,15 34:8	106:4	113:2	Basilio's 9:11 10:3
106:18 108:20	38:1 67:10,10	apologize 102:14	attorney 59:5 96:9	11:6 28:19,20
accounting 43:21	99:17 110:13	Apparently 64:8	authorities 68:3	29:15 31:13
accurate 13:11	agreement 11:18	appear 65:16	79:12,15,18	bear 73:8
accurately 116:3	14:5,17,19,20	APPEARANCES	84:18 85:5	bearing 43:8
acquired 17:17	15:1 17:19 20:19	3:1	authority 41:17	became 11:3 19:22
18:12 23:7 26:3	22:2,8 24:18	appeared 32:3	58:18 59:14 70:8	24:1 32:1 37:8
acquisition 95:16	27:14 30:3 48:18	appears 5:1 20:12	71:10 73:21	41:18 42:6,17
across 25:18	50:13,14 58:20	22:2 41:22	74:16 90:2	45:1 57:1 58:15
act 17:19 41:17	59:19 60:7,10,22	apply 69:8 75:19	authorized 42:5,16	58:19 69:15 77:1
42:5,16 59:14	61:1 64:13 65:11	appreciate 103:13	authorizing 58:11	77:1,12 101:5
70:8 71:10 73:21	65:16 70:4 72:18	apprehend 85:21	Avenue 2:13	become 5:17 19:12
74:16	78:15 92:14	approval 79:17	Avery 1:22 2:5 4:3	34:15
Action 1:7	114:8	80:14	aware 24:1 38:20	becomes 79:3
active 11:21 96:3	ahead 13:15,16,19	approximately	104:5 111:19,22	becoming 41:5
96:21 97:15	16:10	76:19	113:13 114:15	before 2:5 6:1,18
activities 18:6	almost 80:18 94:10	argument 88:10	away 89:7	6:19 7:3,3 8:19
79:22	already 26:18	around 11:8 28:8	Ayala 10:5,10 12:3	10:16,19 25:10
activity 72:20	27:15 36:12,13	31:8	13:9 14:4 17:4	26:3 34:13 45:22
91:14	37:5 67:10,19	arrangements	22:22 23:2 24:6	53:5 56:20 65:9
actually 16:17 70:5	91:1 93:7	95:13 96:15	24:20 26:14,15	69:4 70:5 76:22
add 8:9 87:19 94:6	alternative 55:19	101:1	27:1,4,8,13 28:18	77:1,1 89:19 99:8
addition 93:8	although 24:14	arrival 24:11 39:14	30:3,11 31:4,8	99:21 104:9
110:14	46:3 70:19 80:9	69:5	32:8 33:16 34:4	110:19 116:11
address 22:3,4 68:8	always 46:5 62:22	arrived 24:10 69:7	41:9,10,12,16	began 16:17 94:16
68:12	63:10 74:13 94:7	arriving 17:7 31:2	42:3,4,15 44:17	begin 15:21
addressed 62:2	96:11	46:15 66:15	45:18 46:18,19	beginning 10:5
addresses 55:6	ambiguity 44:19	articles 26:10,12,15	69:6,11 76:19	21:22 23:14
administrative	68:20 72:6	37:22	93:10 107:6,10	behalf 2:7,16 3:10
15:14 19:7,12,21	amount 99:6	Asia 19:18	Azpeitia 47:1,8,12	42:16 50:21 54:2
	anecdote 74:2	asked 6:21 36:10	78:4 107:18	
	Angel 33:16	59:3 60:18 74:10	a.m 94:7 115:9	

Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

Page 119

108:18 behavior 74:10 being 42:12 64:2 91:8 93:18,18 110:14 belief 59:13 68:21 believe 12:19 33:16 36:6,6 60:11 62:14 84:8 86:19 89:2 Belmac 12:11 17:1 22:4,21 23:4,9,10 23:18 24:1 25:2,7 25:10 26:4,4,8,9 26:18 29:20,20 31:14,16,18 32:3 32:8,8 34:5,8,10 34:15 35:6,10 37:8,16,20 38:9 38:16,22 39:10 39:15,21 41:5,13 41:17 42:5,11,17 43:9,21 44:18,22 45:16,16 48:5,7 50:17,17,22 51:1 51:8,11,12,12,13 51:14,20,21 52:1 52:2 54:21 55:8 55:10,16,22 56:7 56:14 57:1,2,3,10 57:18,19 58:2,9 58:14,17,18,18 59:13,13,14 61:17,21,21 63:15 64:19,20 64:20 65:13,17 65:17 66:12 67:3 67:12,13 69:15 70:8,9 71:10,22 72:10,14 73:17 73:20 76:6 77:2 82:18 83:2 84:3 85:7,17 86:14,15 86:19 91:19,22 92:5,13,15,18,22 95:11 96:15,21 96:22 97:2,10,20 97:22 98:2,4,8,9 98:14,15,17,18 99:12,19 100:7,8 100:15 102:1,4 103:17,22 104:2 105:4,14 106:8,8 106:17 107:8,11 107:14,15,21 108:7,12,16,22 110:2,15,22	111:13 112:19 Belmazol 99:13 belonged 10:16 belonging 15:8 Bentley 1:9 12:11 16:22 17:17 18:12 23:7,11,19 25:3,4 32:1 33:9 34:10,15 35:7,11 38:10,15 39:11 41:18 42:6,18 45:1,16 57:1 58:15,19 69:15 70:10,14 71:9,11 72:18 73:21 74:16 75:15 91:12,19,20 92:20 100:22 102:5 110:1,4,14 111:4,8,21 112:2 112:13 115:6 Bernadette 95:3 best 6:12 87:16 better 9:14 between 14:21 21:11 22:3 23:10 25:9 26:8 29:3 45:16 60:10 64:18 82:18 84:21 86:5 87:12 89:10 96:15 101:22 103:16 106:7 107:8,20 108:6 112:19 113:9,14 big 22:15 73:1,4 90:22 101:7 bigger 20:4 48:6 biggest 80:2 bind 58:18 binding 38:18 59:19 bit 6:16 90:14 98:6 board 47:19 58:10 body 80:4 books 78:22 boss 23:3,4 24:10 31:1,2 46:2 57:16 57:17 67:20,21 69:7 70:12 72:21 74:13 bosses 68:6 BOSTICK 3:3 Boston 2:14 49:20 Bostwick 6:20 21:15 22:18 25:15 27:10	28:21 29:2 30:21 31:16,20 32:10 35:21 36:10 37:1 37:17 53:5,11,16 57:4 59:3,16 60:12 65:19 67:15 71:12,17 73:22 74:19 75:2 75:5 76:10 81:2 89:4 90:3 96:18 97:13,17 100:16 102:9,13,15 106:12 107:22 108:8 113:16 114:22 both 21:18 47:2 49:12 52:5,6 53:17 56:22 97:4 bottom 50:8 61:16 bought 10:15,19 23:9 box 111:12 boxes 73:1,4 brain 8:3 Brazil 86:11 87:7,8 break 74:20 76:1 97:6 briefly 53:21 82:19 bright 103:7 British 95:19 96:1 brought 35:2 92:13 BRUCE 3:5 business 4:14 6:4 6:14,18 7:2,4,6 10:14 12:3 15:15 17:14 19:18 24:13 25:9 26:2 31:14 35:12 44:4 46:8 47:15 63:6 65:1 66:8 69:13 72:14 78:11 businessman 46:14 buying 39:18 96:22 99:1	capable 34:19 capital 94:16 Capodovia 83:19 83:21 capsule 11:8,20,20 11:21 14:7 capsules 12:1 35:1 35:13 98:3 99:7 103:18 cardiac 62:9 cardiology 80:1 cards 78:11 care 19:15 careful 96:11 Carpentier 81:13 85:1 case 29:20 30:2 57:8 92:8,11 Castalana 51:6 category 89:15 cats 8:4 center 20:5 60:2 centuries 9:4 CEO 52:2 56:22 57:2,10 58:12,14 110:14 CEOs 68:14 certain 17:5 26:10 37:6,22 63:7 64:1 65:8 67:20 78:22 114:10 certainly 21:2 27:17 42:2 62:6 CERTIFY 116:1 CFO 70:21 93:17 95:16 100:12 104:11,13 111:9 111:21 chain 58:21 chairman 57:10 58:14 67:12 102:7 change 17:3,3 23:10 25:7,12,13 41:6 107:14 changed 23:18 25:2 changes 101:7 116:4 Chapter 39:6 characterization 67:16 charge 30:14,15 47:3,3,4 52:6 70:12 87:8 102:19 103:22 check 74:17 chemical 96:8	chemistry 96:9 105:10 chief 44:7 100:12 children 68:10,12 95:6 Chimos 39:18 choice 47:9 66:1 cites 11:19 city 18:17 Civil 1:7 clarification 29:8 clarify 31:20 71:12 76:10 clause 63:11 clauses 64:7 clear 23:13 53:3 57:9 60:5 69:17 70:11 71:4 84:7 88:11 99:17 clearly 21:12 59:18 Clemente 78:3,5 107:18 client 109:9,9 114:13 clients 86:17 108:13,17,18,18 109:6,8 114:5 close 84:22 closer 20:5 113:1 clubs 47:14 coals 91:3 coast 49:19 coating 91:3 coding 14:7 collect 85:10 collected 85:11 Columbia 2:7 come 82:12,14 85:19 108:19 109:10,13 comes 68:15,16 coming 58:22 66:3 66:4,5,5,14 67:2 69:9 87:3 command 17:5 comment 9:6 62:7 commercial 19:7 86:8 104:12 commiserations 95:10 commission 116:21 committee 74:7 common 9:16 24:19 communicate 86:13 88:1 communicated
---	---	---	--	--

Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

Page 120

92:18 communicating 91:12 communication 23:15 30:19 76:17 85:16 communications 31:7 76:6 86:21 88:8,17,20 89:3 90:8,20 95:12 112:19 113:9,14 114:3 companies 80:2 97:4 company 4:19 6:7 6:8 9:20 11:3 20:4 26:17,21,21 31:4 34:9 39:18 40:19 41:17 57:11,12,19 71:11 72:13 79:19 80:9,18 82:10 86:16 87:20 93:13 94:8 94:9,15,18,20 95:4,17,19,22 96:1 102:19,21 103:2,8 104:19 106:11 111:12 comparable 39:5 competence 103:12 competent 18:5 46:6 80:17 85:12 96:9 103:9,10 105:9 106:5 complete 83:17 91:6 completed 64:14 104:1 complex 62:22 63:10 96:20 97:3 98:5,6 99:16 101:5 compliant 111:18 composed 10:22 compounding 91:6 92:9 concept 8:3 15:9 52:19 53:7,10 64:18 69:6 83:17 concern 91:2 concerned 23:22 38:22 102:20 concerning 39:7 55:8,21,22 89:13 89:14,15 91:13 109:12	conclude 66:7,8 concludes 115:4 concretement 73:18 conditions 22:12 103:20 conducted 18:6 confidential 78:19 79:1 86:22 111:11,15 confidentiality 22:14 70:4 confirm 14:6 72:5 congratulations 95:9 connection 77:19 consequence 72:9 consider 39:10 47:12 74:9 considerably 84:16 94:12 considered 69:19 86:22 88:3,19 94:2 considering 86:9 consists 13:5 construction 29:22 consulted 106:16 contact 39:16 45:21 93:1 95:14 114:4 contacting 114:14 114:16 contacts 39:15 40:3 46:16 87:5 containing 98:3 contemporaneous 31:1 continent 63:8 continue 51:5 62:12 continued 2:22 3:1 4:7,9 27:7 33:11 continues 54:1,13 Continuing 2:1 continuity 12:15 contract 11:19 17:20 20:12 21:10 22:1 26:6 26:20 36:2 37:14 37:18 38:14,20 39:12 86:16 99:3 Contracto 22:1 contracts 39:4 control 79:11 91:5 convenient 76:3 conversation 14:5	conversations 89:20 convinced 92:10,14 copies 91:16 copy 13:14,18 16:4 corporate 51:5 54:7,15 57:13 61:8,17 corporation 12:12 17:1 21:11 23:9 23:11,18 24:2 25:3,10 26:4 31:15,17,19 32:3 32:8,9 34:10,15 35:6,11 38:10,16 39:11,11,15,22 40:1,2 41:17 42:5 42:17 44:22,22 45:3 46:3,4 47:20 48:5 50:17 51:11 51:12 52:2 54:22 55:16 56:7 57:1 57:11 58:14,19 59:15,15 61:21 64:21 65:17,18 66:13 67:3,12 70:9,9 92:22 110:2 corporations 48:6 correct 8:21 12:12 25:11 27:2,5,8,14 32:7 34:1,2,11,12 36:6 37:16 38:7,8 38:11 41:14 44:13,16,18 52:16 54:18 58:15 70:1 71:15 107:12 110:16 112:4,17,20,20 114:3 corrected 63:14 corrections 116:4 correctly 51:9 61:11 corresponding 29:18 112:15 cost 82:5 counterpart 83:15 84:9,11 85:8,9 countersigned 26:14 countries 79:20 86:11 101:7 country 24:21 couple 42:20 49:2 course 46:20 49:9 54:12 111:2	court 1:1 4:3 92:3 cover 45:6 56:16 60:8 67:8 69:12 Craig 2:10 29:9 74:19 create 7:5 creating 7:3 Cremades 48:13 cultural 9:7 24:15 cultures 63:10 currency 99:7 customer 90:6 108:11,12 109:1 110:1 111:16,19 customers 108:13 111:7 112:20 113:9,14 cut 102:10 C-a-r-p-e-n-t-i-e-r 81:13 C-h-i-m-o-s 39:18  <b>D</b> D 3:4 4:1 date 14:18 17:2 20:13 28:8 31:12 33:9 75:15 115:6 dated 5:1 12:16,18 28:7,7,10 33:18 35:16 43:7 45:5 56:17 dates 17:7 Davur 98:8 99:13 day 32:19 65:2 71:18 82:12,13 82:14 94:8 116:11 DC 1:18 2:3 3:8 de 5:3,11,14 8:20 9:1,10,13 10:3,5 10:10 11:6,15,17 12:2,2,16,17 13:5 13:7,8,14 14:1,4 16:3,7 17:4 22:1 22:22 23:1 24:6 24:20 26:14,14 27:1,4,8,13 28:11 28:19,19 29:15 30:3 31:13 33:16 44:12,17 45:18 46:19 51:6 52:19 53:7 54:7 61:8 69:6,11 76:18 85:12 86:9 93:10 100:10,14,21 101:10 104:9,14 105:4,13,20	107:6,10 109:2 dead 62:10 deal 17:14 25:9 26:3 27:7 46:22 100:14,21 dealing 22:17,20 27:1,12 32:7 46:18 47:8 dealings 78:18 Debregeas 1:15 2:1 4:6,11 5:4 12:20 13:6 20:11,16 25:18 28:13 32:15 33:3,8,13 35:17,19 43:10 45:8,11 54:1 55:21 56:18 57:12 61:10 67:9 75:10,14,18 76:14 96:14 103:11 107:6 115:5 117:4,13 117:14,15,16,17 117:18,19,20,21 decide 25:1 decided 7:4 82:4 decision 15:6 47:19 60:2 72:19 decisions 24:17 47:3 60:4 declaration 28:17 33:16 decoration 19:15 decreased 96:5 Defendant 1:11 2:16 define 89:6 97:13 defined 89:12 definition 89:5,17 90:22 definitions 90:9 DELAWARE 1:2 department 83:17 85:3 deposition 1:15 2:1 2:2 21:17 23:14 32:15,17 75:10 115:8 116:2 describe 89:1 96:14 described 78:21 designated 92:3 detail 24:3 details 36:22 37:2 78:16 100:6,9 developed 7:4,9 8:10,11 17:14 71:22 94:18
--	---	--	---	---



Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

Page 121

80:13 development 7:5 82:21 84:14 devoted 80:17 difference 15:4 84:20 differences 24:15 64:16 different 24:21 58:21 63:9,10 76:2 79:18,22 82:16 84:19 86:5 92:5 104:22 111:17 difficult 24:7,8 25:17 direct 60:7 61:3 102:11 112:18 113:8 directed 25:7 88:15 88:17 directing 85:3 directly 53:11 114:14,16 director 27:5 48:1 51:8 52:1 57:15 58:2,4 77:6 85:2 85:14 86:8 104:12 109:18 111:9 directors 47:20 48:2 58:11 disagreements 64:17 65:6 discuss 40:11 42:9 73:9 discussed 26:6 41:3 83:1 101:3 discussing 94:1 discussion 42:13 53:19 62:3,5 104:11 105:8 discussions 42:4 49:7,10 70:6 71:2 71:3 96:6 99:18 dishonest 72:3 disposal 17:21 44:2 dispute 64:1 District 1:1,2 2:6 doctor 40:7 78:13 document 4:20 5:7 5:8,21 6:2 16:1,2 16:9 20:20,22 21:2,3,9 28:10,14 29:14,17 30:6 33:17,20 35:15 36:4,9,18,19 37:8	37:10,10,12,21 38:18,20 39:5 41:20,21 43:5,7 43:11,14 44:21 45:6,9 49:2 52:11 52:21 53:10 55:8 55:9,11,20 56:2,4 60:16 62:1,1 63:16 64:9,12,13 65:10,20 66:18 67:2 70:3,6 documentation 79:10,14 documents 39:7 43:18 45:12 49:8 63:5 73:1 Dodge 2:12 doing 6:4,14 7:2 72:1 92:6 97:1 dollars 94:18 domain 86:3 domicile 51:5 54:7 54:16 61:8,17 done 29:21 43:22 79:15,16 92:4 double 10:18 doubt 42:9 71:18 down 62:8 64:3 89:11,20 97:6 Dr 9:13 13:7 29:15 39:16,19 41:9 44:2,12 46:18 81:6,12,13 85:1 85:11,13 draft 20:12 22:8 27:13 36:3,7 37:18 38:1,2,5,17 50:13,14 55:13 55:14,19 60:9,10 61:1 62:19 64:9 65:11,16 drafting 21:6 drafts 62:2,4 drill 89:20 driving 40:13 duly 4:7 33:4 duodenal 8:8 during 39:4,8 64:22 DWIGHT 3:3	early 16:21 east 19:19 49:19 easy 26:5 economy 102:4 education 24:13,13 46:9 92:16 Edwards 2:12 effective 95:16 efficient 48:9 either 9:10 112:6 Eli 48:7 EMEA 84:21 employee 71:8 73:15,16 76:22 77:16,16 employees 57:14 80:7,8 93:11 97:3 Encinada 54:8 61:8 end 10:18 16:12 28:6 34:14 75:21 75:22 92:14 ending 94:21 ends 32:14 75:9 115:3 engineer 96:8 English 8:20 9:2,9 9:13,16 25:19 47:10 enormous 12:4 enough 23:9 69:17 entered 59:4 entirely 84:7 entities 51:19 entitled 109:10 entity 57:13,20 59:14 68:1,1 envisioned 100:2 EP 50:8 61:4 equal 47:11,13 equally 46:6 equipment 34:22 34:22 35:1 equivalent 47:22 54:21 69:21 84:5 84:22 Eric 95:15 Erin 1:22 2:5 4:3 ESQ 2:10,11 3:3,4 3:5 essential 32:5 essentially 86:15 93:3 98:17 establish 6:11 esteem 101:19 estimate 5:20 6:17 Ethypharm 1:5,6 4:14 5:15,18 6:3	6:9,13,17 7:3,5,8 8:10,12,15,15 12:7 14:12,21 15:2,2,4,8,11,13 15:15 16:13 17:14,15 18:18 19:2 20:7 21:11 22:3 25:10 26:2,9 27:20 33:9 37:12 37:15,19 38:6,7 38:14,21 39:13 43:8,21,22 44:2,6 44:8,9,13,19,20 45:17,17 48:4,6 50:18,18 54:2,3 54:11,14,15,18 55:2,4,6,21,22 56:12,13 61:7,9 61:14 63:14 64:19 65:12 66:13 69:22,22 75:15 76:11 77:10 80:9,19 82:18 85:22 91:14 96:16 97:6 97:7,20 98:3,4,15 98:18 99:2,12 100:7,8 102:1 103:17,18,22 104:8 105:17,20 106:7,8 107:8,20 108:6,11 109:22 111:14,19 112:3 112:14,20 113:9 113:14 115:5 Ethypharm's 4:18 15:13 Euro 82:6 99:8 Europe 63:8 79:21 84:20 86:12 96:11 European 8:2 82:11 84:21 101:7 eve 81:16 86:7,8,10 86:13 87:6,15 104:11 even 48:6 68:15,16 93:16 102:22,22 111:13 114:10 event 84:7 93:20 eventually 20:5 ever 41:16 42:4,15 49:15 52:11,21 58:17 60:11,15 70:7 71:9 83:18 83:21 88:1	103:15,21 107:6 108:5,11 109:22 111:20 every 94:8 everything 63:5,6 64:10 86:4 93:7 94:20 106:18 evidence 29:19 exactly 27:16 40:7 43:3 53:16 73:18 92:8 97:9 99:15 EXAMINATION 4:9 33:11 117:3 examined 33:5 example 9:2 11:19 39:5 47:1 63:11 91:10 examples 72:22 excellent 87:22 except 49:3,3 exception 73:12 excited 90:14 Excluding 73:14 excuse 28:20 110:18 executive 27:4 40:6 51:7 52:1 58:2,3 exhibit 4:22,22 5:4 5:7 8:19 12:16,17 13:1,2,3,4,13,17 15:17,18 20:8,15 20:16 21:6,8,13 21:18 28:1,3,7,13 33:21 34:5 35:15 35:17,20 37:11 41:14 43:7,10,19 45:7,8 56:18,20 60:6 62:15 75:1 117:11,13,14,15 117:16,17,18,19 117:20,21 exhibits 12:15,20 existed 15:14 exists 53:10 expect 11:10 12:4 110:21 expected 85:16 experience 35:7 experienced 46:13 experts 92:7 expires 116:21 explain 9:8 11:14 24:4 25:8 explained 21:12 57:17 69:7 71:21 89:19 91:1 107:16
---	--	--	--	--

Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

Page 122

explaining 74:7 92:17 103:7 extend 106:15 extent 90:5 extremely 25:16 45:22 48:9 57:9 79:1 80:16 91:11 92:18 96:11 97:4 98:5 102:3 106:5	few 22:11 25:16 39:15 41:4 43:13 53:16 56:21 70:19 76:18 81:17 84:12,13 85:18 88:10 100:3 FF 11:9 filed 91:13 files 79:12,13,14 85:4 91:5 109:12 fill 35:1 filling 11:8,20,20 11:21 14:7 35:13 final 37:8 38:17 55:9,11 56:2 62:1 64:12,13 finally 64:13 100:1 finance 103:4,10 Finances 102:3 financial 44:7 71:3 95:12,15 96:15 100:6,12 101:1 101:22 103:8,12 107:7,19,20 108:6 111:9 find 13:14,18 86:17 fine 3:4 75:4 89:10 fines 92:7,16 finish 14:22 finished 12:22 fired 17:6 30:11,14 82:5 first 4:21 5:14 8:20 18:8,11 19:20 23:6 24:1 30:16 30:19 31:7 37:11 45:21 49:4,6 50:6 50:20 55:17 57:14 61:3,4 62:15 64:6 67:7 76:4 81:9 98:12 98:14 five 57:14 69:13 110:5,19 fix 14:6,8 floating 89:11 Florida 49:17 54:22 focus 57:21 89:21 following 45:6 84:18 follows 4:8 33:6 60:19 force 57:18 form 74:1 100:16 formal 21:18	formulation 89:14 forth 38:3 90:2 forward 90:18 found 29:4 92:7 founding 7:3 four 57:14 69:13 92:13 95:5 110:5 fragments 39:3 frame 6:11 56:21 France 1:5 6:9 7:8 8:12,15 14:12 15:2 18:18 20:6,7 38:6,7,15 39:18 43:22 44:9 49:13 49:14 50:19 52:4 54:15,16,18 55:21 66:13,15 67:1 68:16,16 77:12,17 81:21 87:11 France's 12:7 15:15 Francois 81:13 85:13 francis 11:22 free 76:1 French 9:3,5,12,14 11:22 18:14 42:22 53:6,17 frequent 46:15 fresh 77:13 from 5:2,11 12:16 12:17 13:5,7,7,17 14:4 16:7 18:22 22:12 24:10 25:2 25:7 27:19 28:11 31:3,3 33:16 36:20 45:5,12 46:11,12 56:16 58:22,22 59:19 66:3,4,5,5,7,14 66:21 67:1,2 68:7 68:7,14,15,16,17 68:18 69:13,15 73:14 75:20 77:10,10,11,14 80:1 81:20 82:7,9 82:11 87:3 89:7 89:11 92:6 94:7 96:16,21 98:2,15 100:8 104:8 105:15,20 107:14 109:5 111:14 112:18 front 24:5 33:20 46:1 47:22 48:1 86:2	full 8:9,11 28:5 51:22 fully 56:1 further 29:7 33:5  G G 4:1 Gasca 44:3 77:13 83:5 84:5 gastric 8:9 gather 53:22 gave 63:21 95:5 104:5 106:17 Gavoille 81:6,12 83:12 84:8 general 4:15 5:15 5:17 6:11 10:11 42:10 43:15 44:12 46:21 99:10 107:10 generally 20:22 76:12 generated 84:10 gentleman 47:5 Gerard 9:19 94:9 96:7,8 106:2,4 getting 90:14 give 5:20 6:17 82:15 103:8 108:11 110:6 given 109:2 116:3 giving 53:12 glad 46:17 Glaxo 48:8 go 13:15,16,19 15:17 16:10 32:12 41:21 48:3 53:2,5 56:15 62:6 64:10,15 65:21 68:17,17 69:12 72:17,18 75:1 86:7 106:20 115:2 god 72:2 going 4:18,20,21 6:20 14:12 15:3 20:7,11,18 21:14 21:17 38:3 41:5 46:9 49:1 60:3,6 60:12 65:19 69:8 70:5 73:22 75:1 75:18 76:14 78:16 80:1 89:4,7 90:8 102:9,20 104:19 107:17 Gonzalez 71:20,21 72:10,20 77:18	77:22 78:2,3,5 107:18 good 9:5 33:13,14 62:9 63:6 74:21 74:22 86:2 114:20 115:1 Grace 3:5 59:4 graduate 77:14 94:11 grandchildren 68:13 granted 51:7,22 58:10 granting 79:17 great 86:22 group 10:21 15:9 44:10 45:19 46:2 47:21 52:7 55:6 57:16,17 58:12 67:21,22 69:9 72:14 80:15,15 80:16,21 100:12 100:12 102:5 104:13,18 growing 20:4 guess 48:16 guy 77:15 G-a-v-o-i-l-e 81:7  H H 117:9 half 74:20 halfway 87:11 handled 95:15 96:6 100:9 handwriting 63:18 63:19 handwritten 20:13 happen 60:1 happened 23:11 97:22 happy 31:5 46:1,15 hard 94:19 hat 67:13 hats 52:5 67:11 having 4:7 5:20 24:6 33:4 55:5,7 77:7 81:19 98:10 109:15 head 50:9 85:2 headquarter 19:1 headquarters 18:18 19:8 93:12 93:13 healthy 79:15 heard 83:18,20 107:13 110:18
--	--	--	--	---

Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

Page 123

held 84:2	immediately 74:10	interfere 106:19	110:13 111:6	34:21 35:6 52:12
Helen 81:13 85:1	94:10	intermediate 37:21	114:14	52:21 76:16
help 85:11 86:17	important 8:6	internal 36:4	job 68:7,14 80:11	82:22 101:12
helping 18:3	22:12 32:6 36:14	international 8:7	joined 94:10	103:2 112:12
helps 76:1	62:3 80:14 81:5	interpose 106:12	107:16	113:8
her 83:15 84:9,10	102:3,21 104:13	interpret 52:8,9	joint 37:13	knowledgeable
85:3,8	113:3	interpretation 52:8	JONATHAN 3:4	80:21 103:3
hereinafter 54:3,14	improved 84:16	interpreter 3:13	judge 91:18 92:3,6	known 11:3 17:1
61:9	improvements	16:6 40:22 53:9	judgment 59:12	38:10,16 39:12
Herrera 74:10,15	84:18	99:9 112:8,22	July 1:19 2:3 33:10	40:5 42:12 70:10
88:2,18,21 90:21	inactive 97:1 99:1,4	interrupt 76:21	56:17,21 75:16	78:21
108:5	Inc 1:10 92:21	interview 71:19	115:6,9	knows 93:7 102:12
hey 102:19	include 21:17 38:14	intimidation 73:6	June 12:16 14:16	know-how 18:1,2
hierarchy 109:4	62:15	invest 94:17	just 5:6 6:11 7:15	36:15 63:3,4 72:7
him 10:6 11:7,10	including 39:10	invested 94:20	11:16 25:8,15	
26:16 40:5 46:15	79:15,21,21	investment 36:15	32:12 43:13 49:5	L
46:18 49:16,18	income 82:11	invoicing 43:21	53:2 56:20 59:4	la 51:6 52:20 53:8
50:1,3 51:7 52:1	incorrect 114:10	involved 36:21	62:8 65:1 73:10	54:7 61:8
57:17 65:21,22	individuals 86:3	37:6 65:11 67:6	74:2 75:2 76:21	Lab 77:1 85:6,16
71:2 72:4,4 74:8	industry 40:6 96:10	82:17 86:10,11	77:13 81:4 86:6	86:14,19 91:22
74:12 76:11,15	influencing 47:4	86:12 102:5,6,8	89:5,21 91:16	105:13
77:10,12 85:16	information 6:6	107:7,19 108:2,5	97:13,14,17	labeled 109:8
90:5 93:18	31:3 55:6,8 85:4	110:9 112:14	103:7 104:3	Laboratorios 22:4
102:10,11 104:17	85:10,11 87:1,2	involvement 21:5	106:13 114:15	22:21 23:4 34:5,8
108:2 114:16	92:16 98:10	22:7,10 35:20		37:16,20 38:22
himself 34:4 71:13	110:7	Irregeron 74:6	K	41:13 42:11,11
71:21	informed 103:20	issue 32:9 96:13	keep 88:9 101:3	43:9,21 44:18
hiring 18:4,5 84:10	104:5	104:8	keeping 48:4	45:17 50:16,22
Holdings 95:19	ingredient 11:21	issues 36:2 94:1	kilo 96:4	51:13,14,20,21
96:2	96:4,21 97:16	I-g-o-n-e-t 100:12	kilometers 18:22	57:3 58:2,9,18
Holiday 95:19 96:1	ingredients 95:16		kind 17:20 92:17	59:13 61:17,21
home 69:12	97:1 99:1,5	J	103:14	64:19,20 65:12
honestly 32:4	initial 60:20 62:16	James 50:21 51:20	knew 30:14 47:18	67:13 70:8 71:10
111:22	initially 17:4 85:9	January 23:19	86:1 93:7 107:15	73:16,20 76:6
Hopefully 53:21	96:3	35:16	know 7:16,19 9:10	83:1 92:4 95:11
Houdan 18:15,17	initials 60:17 66:15	Japan 79:21	11:7 12:22 15:7	96:15 100:15
19:11,21 20:2	inquiries 109:5	Javier 45:5,13	17:10 18:16 19:9	101:22 103:17
40:9,11 54:16	inspect 92:4 108:19	48:11	19:14,16 25:5	105:4 107:8,11
hour 74:19	install 14:8	Jean-Claude 18:14	26:5,9,18,19 31:2	107:20 108:7,12
human 79:4	installed 14:13	Jean-Francois	32:3,4 37:21 38:3	108:22 110:15,22
Huntington 2:13	15:19 16:13	39:16,19 40:4	41:8 42:3,7 45:20	112:19
	27:20 29:19	Jim 24:22 30:15	49:5 50:2,3 63:8	lad 24:19
I	installing 15:7,12	39:14 45:21 46:8	63:19 66:9 72:8	lady 90:15
idea 6:15	17:22	56:16,22 57:9	73:17 78:7,9,9,9	language 9:10,11
identified 5:4 12:20	instance 18:8	58:1,8,17 65:7	83:8 84:2,6 86:15	9:15,16 13:17
20:16 28:13	instruct 29:5	66:5,19,21,22	88:13 90:5,6 98:6	24:14 53:2
33:17 35:17	instructions 104:10	67:8,20 68:4,7,8	99:22 100:17,20	languages 63:9
43:10 45:8 56:18	104:14	68:22 69:5,6,12	101:2,6,11,14,16	lansoprazole 76:8
117:11	insufficient 56:1,5	70:14 72:5,15	101:17 102:6,8	99:20
identifies 34:4	intellectual 96:12	73:12,14 74:12	102:17 103:13	last 11:15 25:16
identify 56:6	105:10	74:14,17 85:20	104:20 105:3,19	84:13
identifying 15:18	intended 21:10	86:6 93:3 101:3	105:19,22 107:13	lasting 39:8
54:21	75:19	101:11,12,18,19	110:6,8,17	later 19:22,22
Igonet 44:5,6 95:15	intention 89:20	101:21 102:18	111:15,16,16	23:12 34:10,15
100:11 104:10,15	interactions 4:19	103:2,5,12,13	114:4,5,11,19	35:7,11 36:19
105:21 106:1	interested 17:12	104:8 105:16	knowing 108:16	38:10 39:12
imagine 60:1	interesting 11:10	107:15 110:7,10	knowledge 15:1	41:18 42:6,17



Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

Page 124

45:1 57:1 58:14 58:19 65:3,5 70:10 82:12 96:4 Laughter 53:15 62:11 95:8 law 2:4 lawsuit 88:10 lawyer 48:13 55:2 55:3,3 102:22 lawyers 29:3 48:12 95:7 layoff 82:3 le 52:19 53:7 leader 80:12 leaders 80:10 leading 84:17 99:6 leads 79:17 learn 18:11 learned 23:6 least 8:14 18:7 40:8 67:11 73:11 96:10 110:7 leave 58:7 65:9 leaving 31:1,9 32:5 led 98:7 Leduc 9:19 10:4 16:4 31:13 94:9 96:7,8 105:7,8 106:1,2,4 left 4:12 33:15 45:18 74:12 94:15 95:5 legal 19:1 68:1 legally 29:4 less 25:20 45:20 let 4:12 6:16 11:7 12:22 14:2,22 15:17 20:8 21:6 23:13 24:3 25:8 27:17 28:9 34:13 35:15 37:11 43:5 49:5 50:20 51:2 56:15,15 59:17 61:3 73:13 88:16 97:6 101:9 103:15 113:6,6 letter 6:19 9:9 16:5 16:7 28:19 72:4 let's 7:15 12:14 15:17 29:21 30:14 32:12 45:4 47:21 53:2 57:21 58:7 60:22 62:6 66:19,20 70:3 73:3 78:20 81:19 86:7 115:2 level 47:6 68:7	84:20 89:11 levels 84:19 104:22 111:17 Lewis 2:4 3:6 license 111:14 life 78:8 like 5:2 7:17 12:18 20:9,10 30:1 37:20 57:5 58:22 61:18 65:2 87:2 87:15 95:20 106:17 likely 74:18 Lilly 48:7 limited 92:9 110:5 line 50:6 65:21 89:10 lines 43:8 links 86:4 Liorzou 81:16 86:7 86:8,10,13,19 87:7,15 104:11 list 110:11,22 111:7 111:10 listed 15:5 41:12 listening 7:17 lists 90:7 108:12,12 109:1 110:1 little 6:16 89:17 live 68:9,10,11,13 103:1,2 LLP 2:12 load 111:18 local 7:6 79:18 84:18 99:7 located 16:19 19:13 19:22 locations 18:9 logical 29:18 98:5 111:2,5 long 6:13 25:16 42:7 63:2 100:3 106:10 longer 31:4 look 5:6 28:3 36:18 49:4 56:20 60:6 60:22 64:10,12 108:19 looked 25:3 36:12 43:14 91:15 looking 5:21 8:15 62:19 89:9,15 looks 5:2 12:18 20:9,10 61:18 lose 80:8 lost 82:11 lot 24:19 25:4 80:8	94:19 low 11:9 l'esprit 52:19 53:7 L-i-o-r-z-o-u 81:17 <hr/> M machine 14:7 28:4 machinery 14:12 15:12,19 16:13 27:19 29:21 34:19 72:7 machines 15:7 17:22 made 83:16 104:11 104:12 Madrid 18:10 22:3 22:4 37:15 48:14 51:6 54:8 61:9,19 68:8 major 64:17 make 12:4 14:3 34:22 43:19 59:3 73:10 79:2,3 86:4 90:16 108:20 makes 15:3 18:2 making 91:3 103:5 man 24:7,8 managed 85:10 management 80:1 manager 5:15,17 10:11 42:10 44:13 76:20 107:11 109:20 managing 67:21,22 manifiesta 28:12 manufacture 7:9 15:13 17:15 35:8 38:22 39:13 40:15 65:11 76:8 manufactured 111:13 manufacturer 10:16,20 manufacturing 8:16 11:4,11,19 12:7 14:14 15:20 17:20 21:9 26:20 27:14 35:12 48:17 80:12 84:14,15 86:16 89:13 90:7 99:3 112:2 many 38:19 39:3 50:1 62:4 77:21 78:1,1,7 87:5 110:4 Marcelle 81:10,11	81:12 83:9,11,12 March 20:9,13 43:6,7 45:5 96:16 margins 11:9 12:4 mark 4:22 16:8 35:15 marked 5:7 12:14 20:8,14 43:6 market 98:1 111:11 marketed 111:12 marketing 8:3 79:17 80:14 98:8 Marques 54:7 61:8 Massachusetts 2:14 massive 82:3 Mateo 44:3 77:12 84:5 materials 62:3,5 matter 29:2 33:9 75:15 115:5 matters 86:21 88:3 94:2 103:13 Matu 54:16 may 21:2 28:1 29:7 29:8 30:3 36:3,3 52:7 55:1 59:7 80:8 82:12 maybe 6:1 15:9 16:15 24:9 25:21 27:15,16 39:22 40:17,17 51:16 57:14 70:21 72:19 77:4 84:6,6 87:21 94:21 98:13 99:14 105:8 111:13 113:1 114:5,6 MBA 46:12 MD 18:14 mean 14:1 24:12 25:4 30:18 38:2 43:1 46:5 54:17 59:12 66:10 71:4 71:4 78:12 108:13 means 11:20 14:5 15:6 17:20 24:19 24:21 30:2 46:5 48:13 49:20 52:1 52:5 58:5 63:15 74:13 83:15 92:9 92:11,17 98:2 109:8 medical 19:7 40:7 85:14 94:13 medicine 79:5	meet 30:18 41:7 49:15,18 70:13 70:20 71:5 77:21 meeting 10:4 49:21 meetings 78:8 memorandum 48:17 50:5,6,14 memory 16:16 17:5 27:19 30:12 40:20 41:2 42:15 49:21 87:14,16 87:17 mention 38:6,6,9 66:12,13 mentioned 22:16 53:4 63:22 66:11 67:19 82:16 99:21 101:10 111:12 message 25:18 met 30:10,16 49:13 49:14,16 50:1,3 71:2 76:19 77:3 77:17 78:7 93:16 microgranules 34:20 35:8,12 micropellet 90:4,6 90:21 micropellets 14:10 14:14 34:20 35:8 middle 19:18 25:22 might 74:9 million 82:6,8,9 mind 5:21 14:22 16:3 48:4 80:20 85:19 88:9 101:3 minimum 87:21 minutes 75:2 misleading 15:9 72:3 misspoke 33:17 misunderstanding 60:21 misunderstandings 61:2 62:17,21 64:5 65:1 mollified 69:10 moment 5:6 7:15 20:21 32:13 57:21 63:22 76:21 86:7 106:21 Monday 1:19 2:3 money 15:6 94:17 94:19 100:7 102:18 103:1,6,6 105:10 106:17
---	--	--	--	---



Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

Page 125

<b>moneymaking</b> 102:21	47:3 71:3 95:14 103:19	<b>next</b> 4:22 12:15 20:8 35:15 43:7 70:5 75:1 89:10	<b>obtain</b> 8:16 <b>obtained</b> 91:18 <b>obviously</b> 21:1 25:18 108:16,16 110:7,12	81:5 83:17 84:5 93:15,18 95:6,22 99:14 106:15 114:5
<b>moneywise</b> 105:9	<b>M-a-r-c-e-l-l-e</b> 83:10	<b>nitrate</b> 100:3	<b>occasions</b> 77:21	<b>ones</b> 68:6
<b>monies</b> 98:15 100:7	<b>N</b>	<b>nitroglycerin</b> 7:14 7:19 99:22	<b>October</b> 31:11	<b>only</b> 15:5,18 17:10 26:15 34:22
<b>monitor</b> 62:10	N 4:1 10:18 117:1,1	<b>nobody's</b> 72:17	33:18 34:1	39:16 74:13 79:2
<b>Monterde</b> 76:20,22	<b>name</b> 8:7,7 10:22	<b>normal</b> 110:8	<b>off</b> 4:13 32:12,16 33:15 40:14 42:13 53:19 64:8 75:5,7,10 102:10 106:20 107:1 115:2,7	83:16 93:15 99:18 102:2 105:9 114:6
77:4 83:3	17:3 18:15 23:10	113:21,22 114:9	<b>offered</b> 12:6	<b>onto</b> 75:1
<b>Monterigone</b> 61:18	23:18 25:2,12	114:19	<b>office</b> 18:10 19:1,9 19:10,10 74:6	<b>opened</b> 19:5 20:6
<b>month</b> 28:6	41:22 44:3 53:4	<b>normally</b> 114:6	<b>officer</b> 44:8 70:14 71:9 73:15,16 100:13	<b>operating</b> 79:5,8,9 79:10
<b>more</b> 17:11 21:19	70:22 78:3,10	<b>Northwest</b> 2:5 3:7	<b>offices</b> 2:4 19:5,12 19:21 20:3,4	<b>operation</b> 47:5 60:4
25:3 30:14 43:20	81:9 83:18 85:19	<b>Notary</b> 2:6 116:17	<b>official</b> 19:1	<b>operations</b> 82:11 87:8
45:20 56:13	86:18 92:22 95:2	<b>note</b> 13:4 64:6	<b>officially</b> 42:10	<b>opinion</b> 103:12 104:5
59:18 61:22 64:9	107:14 110:2	<b>noted</b> 66:2 116:4	<b>often</b> 68:15 101:18 103:5	<b>opportunity</b> 53:12
71:6 76:2 81:17	114:13,18	<b>nothing</b> 8:4 19:4 32:3 65:4 73:5	<b>oh</b> 50:10 72:15 101:14,16 109:15	<b>opposed</b> 9:2,9
89:17 92:8 101:5	<b>named</b> 4:3	<b>notice</b> 2:2 21:22 38:5 44:5 109:15	<b>okay</b> 4:16 5:9 7:21 13:2,2,9 16:10 21:4,21 22:6 28:9 28:15,17 30:9 31:11 32:13 43:17 59:19 63:6 70:13 75:3,5 78:6 98:22 100:6 106:17	<b>Oracensio</b> 83:19,22
<b>most</b> 74:18 77:15	<b>names</b> 81:18 83:20 105:3 108:17	<b>notion</b> 19:19	<b>old</b> 15:8 24:20 63:8 80:18	<b>order</b> 14:8,9 18:4
80:7 81:5 83:15	<b>narcotics</b> 80:3,3,5 80:12,14	<b>November</b> 6:5 12:18 16:13 27:21 28:8,10 33:18 91:11,12	<b>officers</b> 70:7	<b>organization</b> 41:19 47:15 69:10 84:12 104:19
102:20 109:3	<b>Natermann</b> 10:16 10:19	<b>number</b> 1:7 22:15 25:19 26:10 32:14 33:8 37:6 37:22 50:7 61:4 64:22 67:20 75:14 110:6 115:3 117:11	<b>offices</b> 2:4 19:5,12 19:21 20:3,4	<b>organizations</b> 48:8
<b>mother</b> 57:11 95:22 96:1	<b>native</b> 9:9	<b>numbers</b> 61:19	<b>official</b> 19:1	<b>organize</b> 21:10
<b>Moving</b> 85:1	<b>nature</b> 25:20 78:17 88:6 89:1	<b>numerous</b> 36:2	<b>officially</b> 42:10	<b>origin</b> 77:17
<b>much</b> 23:11 24:12 91:7 103:17	<b>near</b> 18:21	<b>N-a-t-e-r-m-a-n-n</b> 10:18	<b>often</b> 68:15 101:18 103:5	<b>originally</b> 35:3
<b>Murphy</b> 17:6 24:11	<b>nearby</b> 68:13		<b>oh</b> 50:10 72:15 101:14,16 109:15	<b>originated</b> 66:19
24:22 30:11,15	<b>necessarily</b> 67:6		<b>okay</b> 4:16 5:9 7:21 13:2,2,9 16:10 21:4,21 22:6 28:9 28:15,17 30:9 31:11 32:13 43:17 59:19 63:6 70:13 75:3,5 78:6 98:22 100:6 106:17	<b>other</b> 39:1,6,7 47:5 47:21 61:19 63:1 63:4 65:3 67:13 70:14 71:15 72:22 76:8 82:17 84:22 86:11 87:19 88:3 89:15 93:8 94:2,5 100:4 104:16 105:12 106:16 111:6
30:17,20 31:3,8	<b>necessary</b> 15:5 21:20		<b>old</b> 15:8 24:20 63:8 80:18	<b>others</b> 9:19 76:16 95:6,10
39:14 45:21 46:8	<b>necessity</b> 15:14		<b>omeprazole</b> 8:7 39:1,13 40:16,18 76:8 91:15 95:13 95:17 96:12 98:1 98:8 99:13,18	<b>otherwise</b> 48:9
46:13,22 47:2,8,9	<b>need</b> 20:20 21:1 29:7 38:19 49:4 50:9 51:2 54:4 106:15		<b>once</b> 61:22 64:8 71:6	<b>Oury</b> 16:4 81:6,6 82:20 83:1
47:10 49:7,12,22	<b>needed</b> 7:9 17:22 99:5		<b>one</b> 6:1 13:2 26:21 28:10 31:1 36:1,2 36:19 37:9,21 39:5 45:20 48:12 51:17 57:13,20 62:8 63:1,1 65:2 65:2,3 67:12,21 67:22 70:12 71:18 72:21 77:9 78:9,9,9 80:2,10	<b>out</b> 30:4 89:11 94:19
50:21 51:20	<b>negotiate</b> 103:16 103:19,21 104:4 104:15 108:2			<b>outside</b> 20:4
56:16,22 57:10	<b>negotiated</b> 26:6 101:22 105:4,13			<b>over</b> 79:21 84:20 94:13
58:1,4,8,17 62:19	<b>negotiating</b> 104:7 105:16 106:4 107:7,19 108:6 negotiation 106:6 108:3			<b>owed</b> 106:17
65:7 66:5,19,21	<b>negotiator</b> 102:2			<b>own</b> 14:3 34:19 98:1 99:12 101:11
66:22 67:8,11,20	<b>never</b> 14:21 53:6 72:10 94:19 108:2			
69:5 70:6,14	<b>new</b> 20:6 31:1 45:15 49:20 91:14			
71:13,16 73:13	<b>newsmen</b> 71:21			
73:14 74:13,14	<b>newspapers</b> 71:20			
74:17 85:20 86:6				
93:3,9,15 101:3				
101:11,12,21				
102:18 104:8,16				
104:17 105:12,16				
107:16 110:7,10				
110:13 111:6,20				
113:10,15 114:4 114:14				
<b>Murphy's</b> 68:22 69:19 103:12				
<b>must</b> 22:14 24:11 31:4 36:1 46:14 65:6 68:1 69:4 72:5 84:19 85:20 94:6 96:5 98:10 106:14 109:2 111:10				
<b>myself</b> 7:16 46:10				

Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

Page 126

owned 12:11 26:21 35:3 40:19 owner 47:20 ownership 64:2 owning 39:22 oxygenation 8:3 O'Toole 3:14 o-m-e-p-r-a-z-o-l-e 8:8	113:1 paying 97:2 99:2,3 99:4,5 payment 106:15 pelletization 71:22 pellets 34:22 35:12 Pennsylvania 46:13 people 10:22 18:3,4 18:5,7 42:9 44:2 47:21,22 52:6 57:15 67:6 70:19 71:2,7 72:12 76:5 76:18 78:7,18 80:17,17,19,21 81:20,21 82:3,4,5 82:16,17 83:3,16 84:12 85:18,22 85:22 87:6,15,20 92:20 93:18 94:4 94:5 104:6,20,22 109:3,4,17 110:4 110:6 114:8	pertain 4:18 pertaining 90:2 pesetas 99:6,7 Pfizer 48:7 pharmaceutical 10:15 12:8 17:16 35:7 39:1 40:6 65:12 76:9 77:7 79:3 84:15 96:10 97:15 104:1 112:4,13 Pharmaceuticals 1:9 34:10,16 35:11 38:15 92:21 100:22 110:1 pharmacist 77:6 pharmacokinetic 94:14 pharmacological 79:22 pharmacologist 94:12 pharmacy 46:10,11 78:13,22 94:11 PharmD 77:9,13 78:12 95:6 phase 89:8 PhD 46:8 102:22 Philadelphia 49:20 phone 25:1 72:4 74:11 phrase 53:22 54:10 54:17,21 62:16 pick 4:12 pile 91:3 place 25:9 74:11 95:17 Plaintiff 88:9 Plaintiffs 1:7 3:10 59:6 plant 14:9 15:7 16:14,17,19 17:21 18:10 29:19 76:20 77:5 83:16 91:19 109:20 please 5:7 7:12 13:14,18 20:9,15 40:22 43:6 50:5 59:8 62:8 76:5 88:12 112:5,21 112:22 PLLC 2:4 3:6 plus 20:3 pocket 82:7,9 point 9:15 16:21	23:16 36:13 54:10 56:4 62:4 114:10 points 22:11,15 26:7 37:7 political 9:6 Portanule 87:11 Portuguese 87:10 87:12 position 68:22 69:19,21 positions 84:2 possibility 11:18 12:6 possible 16:15 power 24:6 46:5 47:18 51:22 58:6 58:8,10,21 60:2,2 powers 41:20 51:7 51:22 practice 21:15 preamble 49:4 preambulo 21:12 precise 21:19 23:8 56:13 78:16 precisely 14:18 72:12 84:4,4 precision 56:11 predecessor 92:22 prefer 46:22 preference 65:22 preferred 47:8 preparation 22:8 35:20 36:8 preparations 36:1 prepared 37:12 preparing 85:4 present 2:7 3:13 president 51:14,21 52:2 57:2,10 58:5 58:9 61:10 67:12 67:13 68:4,5 69:1 69:1,2,3,19,20,21 69:22 110:14,15 110:21 111:4 previous 110:2 previously 4:7 33:4 price 11:22 12:1 22:12 96:4 103:16,22 104:8 105:5,13 prices 11:8,10,18 105:16 probably 9:14 45:18 49:12 71:1 73:1 84:1,4,10 85:11 86:2 87:6	91:9 98:9 99:1 101:2,10 104:18 106:1 108:9,9 problem 32:4 65:8 105:6 problems 46:7 procedural 29:2 procedures 18:2 79:6,10 91:4 proceed 14:9 90:1 process 13:22 80:3 processing 80:3 proclivity 73:2 produce 111:17 produced 99:19,22 producer 110:9 producing 27:15 34:19 108:17 109:7 112:3 114:7,7 product 7:8,14,16 8:2,5 15:13 18:1 40:18 79:2,3 80:7 91:3,7 98:1 99:11 99:19 109:12 production 7:7 12:5 14:10 16:16 20:3,6 44:1,4 82:21 98:18 108:20 109:11 112:14 productions 84:13 products 8:10,11 8:16 12:8 17:16 39:2 65:12 76:9 79:4,20,22 80:13 84:15 91:14 92:7 99:20 100:4 104:1 109:8 111:11 112:4,15 professional 78:8 professionals 87:22 profitable 97:4 progress 2:2 proper 55:5 property 30:2 96:12 105:10 proposal 14:6 propose 20:21 43:15 protect 37:6 80:6,6 protected 40:18,18 protection 36:14 36:15 111:16 protocols 90:7 proves 102:15 provide 89:16 97:7
<b>P</b> P 3:3 4:1 packaging 44:1 page 50:7 61:4,16 62:15 63:12 64:6 66:4 67:7 paid 55:1,2 82:6,9 82:10 96:3 100:7 pain 80:1 Palmer 2:12 paragraph 11:6,12 50:20 53:3,22 55:17 Pardon 59:6 parent 69:2,3,20 70:9 71:11 93:13 Paris 18:21,21,22 20:5 46:11 68:7 68:11 part 21:18 35:22 36:7,8 57:18 80:14 92:9 94:14 95:15 particular 36:21 37:10 parties 2:8 37:14 38:14 50:12,13 60:11,13 parting 29:22 partner 9:15,17 72:15 94:9 96:6 parts 52:15 party 39:12 Pascal 81:6 82:20 82:22 Paseo 51:6 past 48:20 patent 96:9 patents 40:19 91:13,15,16,17 96:12 patients 79:16 80:6 Patrice 1:15 2:1 4:6 33:3,8 54:1 55:21 75:14 115:5 117:4 pay 97:20 103:18	per 96:4 99:6 103:18 percent 69:14,15 Perez 10:4,10 12:2 14:4 17:4 22:22 23:1 24:6,20 26:14,14 27:1,4,8 27:13 30:3 33:16 44:17 45:18 46:19 69:6,11 76:18 93:10 107:6,10 perfectly 52:3 60:5 70:11 90:17 103:3 109:9 period 39:9 45:15 63:2 75:20 76:1 84:14 96:16 permanently 103:20 104:4 permission 74:11 permits 103:1 permitted 69:12 72:16,17,17 82:4 person 41:12 49:10 55:10 68:2 73:11 73:12 77:8 86:19 93:8 104:16,18 105:2 111:6 personal 68:11 personally 39:10 70:13 76:11,15 88:2,18,21 93:1 103:21 104:4			

Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

Page 127

97:10 109:22 provided 109:1 Public 2:6 116:17 purchase 95:13 96:2 purchased 11:2 16:22 24:2 25:10 28:5 98:2 purpose 15:18 pursuant 2:2 put 28:18 38:19 47:22 63:3 78:10 putting 17:20 42:9 44:1 47:4 60:4 91:2 P-e-s-e-t-a-s 99:9 p.m 2:5 32:17,18 33:1 94:7 115:8	101:18 103:5 quote 32:2  <b>R</b> R 3:5 4:1 11:1,9 50:21 radar 32:2 raise 103:6,6 range 8:9,11 82:2 rather 46:18,19 reach 30:2 reaction 72:15 read 9:16,21 11:16 13:17 29:17 48:19,21 50:20 51:9 59:9 61:11 112:10 116:1 ready 28:5 real 46:2 92:13 really 15:22 17:2 29:22 38:18 51:19 57:19 63:15 64:11 69:12 72:21 75:20 80:10 91:8 94:15 107:15 109:11 reason 15:5 38:13 72:9 reasonable 109:15 reasons 68:1 recall 23:14 60:15 113:18 recalls 113:16 receive 109:5 received 66:22 77:9 90:1 98:15 100:8 receiving 96:21 Recess 75:8,12 107:2 recessed 32:18 115:9 recognize 5:10 28:17 29:14 78:3 recollection 6:13 42:19 43:2 70:17 70:18 71:5,8 93:21 reconvened 32:18 115:9 record 4:2,11 9:8 12:15 13:4 32:12 32:16 33:7 42:13 53:19 59:4,9 75:5 75:7,11,13 97:17 106:20 107:1,3 112:10 115:2,7	red 40:13 rediscuss 60:21 rediscuss 62:18 refer 10:6 50:4 78:2 reference 6:12 44:21 45:2 55:16 59:4 60:13 65:17 references 10:4 55:20 referred 21:6 50:22 54:3,15 81:4 referring 6:8 8:19 9:17 13:13 32:1 54:11 61:13,20 64:5 71:13 regard 44:6 49:3 78:18,19 regarding 20:19 43:13 49:2 76:7 86:21 88:2,2,19 90:21 93:1 95:12 95:13,14 103:17 register 79:20 registered 19:9,10 19:10 regular 86:20 regulation 80:4 regulatory 85:2 related 43:20 relationship 36:14 37:7 45:16 62:22 64:18 relevant 26:19,22 rely 47:18 remember 4:15 5:19 17:2 18:13 18:13,14 19:14 26:7,8,19 27:16 30:6,13 40:8,12 44:3 70:20,22 74:7 76:18,19 77:3,8,10,11,13 81:18 94:16 96:22 99:14 101:19 114:2,14 reminds 45:14,15 reminiscence 70:16 70:17 rental 98:4 99:4 renting 97:2 repeat 40:22 112:5 112:21 replied 36:13 104:3 reply 15:3 REPORTED 1:21 reporter 4:3 59:9	112:10 represent 13:8 60:8 representation 50:21 54:2,14 representative 41:13 represented 61:10 representing 34:5 46:3 47:19 51:20 72:13 represize 73:2 requested 18:5 41:19 59:10 112:11 resale 99:11 resemblance 73:8 reserve 21:19 respect 4:13 18:7 22:20 27:13 42:2 49:7 63:21 64:18 95:10 100:22 respective 2:8 52:7 respiratory 7:13 responses 90:4 responsibilities 22:14 104:21 105:1 responsibility 36:16 42:1 77:7 106:9,10 110:8 responsible 42:12 52:6 55:10 68:2,3 77:5 105:2 111:17 rest 62:17 86:12 resumed 33:4 returned 62:20 revenues 69:14 review 109:12 reviewed 5:8 16:9 21:3 28:14 43:11 45:9 55:9,10 reviewing 12:22 Rhone-Poulenc 10:19,20 Richard 11:1 right 4:17 6:9 7:19 11:4 17:8,12 18:8 21:19 23:18 25:6 28:9 37:14 47:13 49:1 50:7 53:11 56:5,7 61:5,14 64:15 65:9 75:21 75:21 82:2 83:11 84:19 87:4 97:11 97:17,18 101:7 109:13 112:17	Rimafar 4:19 10:12 10:14,15 11:1,3 12:2,6,10 13:8,15 13:19 14:9,13,16 15:20 16:14,17 16:19,22 17:15 17:16,19 18:7,9 18:12 20:8 21:11 23:7,10 24:2 25:7 25:9,11 26:3,3,8 26:18 27:5 29:20 35:4 37:7 41:5 42:11 76:5,22 77:1 84:11 107:14 111:13 Rimafar's 15:7,12 27:20,21 risks 104:21 roadshows 103:5 Robins 16:5,8 Robinson 2:4 3:6 room 48:21 59:5 74:7,12 rooms 30:1 Rossignol 39:17,20 40:4,21 41:3,7 rough 21:15 Rousan 54:16 rules 106:18 108:21 run 91:22  <b>S</b> S 4:1 117:1,9 Saint-Cloud 19:3,5 19:6,6,8,13 20:1 74:7 sale 106:7 same 15:22 19:19 24:9,14 32:19 36:21 46:9 47:21 56:10 57:20 66:16 69:2 84:20 108:8 Santos 45:5,13 48:11 Santos's 48:16 saw 17:6 27:17 72:10 91:11,16 saying 11:15 13:14 13:15,19 72:15 104:3 says 11:7,22 13:18 48:22 54:1 61:7 61:16 school 46:12 77:14 scientific 24:13
---	--	---	--	---



Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

Page 128

94:14 scientist 46:14 screen 32:2 second 38:1,2 53:3 53:21 62:8 secrecy 80:4 secret 87:2 88:7 89:12,13,14,14 secrets 86:22 88:4 88:20 89:3,6 91:9 92:12,12 93:2 94:3 see 10:5 11:12,17 18:15 22:5 28:4 31:5 34:6 40:8 41:22 44:19 46:15 50:8,10,10 55:18,18 56:4 60:15 61:1,1,7 63:10,13,14 64:12 66:14 67:7 72:22 81:19 91:10 92:5 104:17,18 109:7 114:8 seeing 60:16 seems 99:16 seen 48:20 113:21 segments 76:2 seizing 92:7 selling 104:1 sense 15:4 23:9 52:4 63:2 89:22 96:20 sensitive 96:13 sent 13:15,19 16:5 sentence 11:15 13:18 14:1 76:11 sequence 17:12 19:20 sequentially 38:2 service 24:18 services 17:21 SESSION 33:1 set 79:5 91:6 94:8 setting 107:7,19 several 40:5 64:22 87:7,9 91:13 shaking 50:9 shape 63:4 shared 94:16 97:14 shareholder 80:16 shareholders 82:6 sheet 17:3 45:6 56:16 60:8 shocking 113:19 show 4:20 20:11	28:9 93:17 showed 40:13 52:14 showing 103:7 sick 79:16 side 57:13 63:1,1 105:20 106:15 sign 59:18 signature 43:8 44:11,12 signed 13:8 14:19 14:20 15:2 36:3 37:22 38:21,21 39:4,6,7 41:20,21 44:5,17 52:11,13 52:14,22 55:11 56:3 60:11 62:2 66:19,20 significant 96:2 similar 24:12 36:19 simple 51:13 63:1 84:12 101:6 simplicity 93:4,6 simplify 23:15 simply 25:12 89:11 89:17 91:2,6 Since 6:5 sir 33:21 37:4 51:10 54:5,19,20 62:13 situation 74:8 96:20 six 110:19 size 46:4 slightly 96:5 Slow 62:8 small 46:4 48:5,8 80:9 94:8 99:2 smoothly 48:3 sold 10:21 solve 46:7 65:8 some 4:17 7:2 16:21 17:21 26:12,15 60:20 61:18 64:8 65:5 71:1 75:18 82:11 82:11 87:21 88:10 89:15,16 89:16,22 95:9 105:8 somebody 24:5,16 24:16,22 31:3 46:1 47:17 86:2 103:3 someone 24:18 31:5 85:21 something 11:9	25:22 29:4,18 45:14 53:6 86:1 89:11,12,17 95:19 102:3 sometime 19:22 sometimes 18:3 49:14 78:8 109:10 somewhat 69:10 sorry 6:5 13:16 14:22 17:7 30:18 31:16 41:10 50:10,11 52:18 53:5,18 54:6 70:15 71:6 72:5,8 72:16 83:8 87:17 91:20 93:5 100:19 112:8,22 sort 89:10 sound 57:4 sounds 7:17 souvenir 29:16 40:12 42:8,20 70:15 71:4,6 space 97:2 98:20,21 99:4 Spain 1:6 4:14 5:16 5:18 6:4,13,17 7:2,3,5,10 8:17 15:2,4,14 24:20 37:15 38:8 42:12 44:13 45:17 49:14 50:18 52:4 54:11 55:22 57:13,15,16,19 58:3,5,6,22 59:1 59:18 60:3 61:9 61:14,19 65:13 68:2,12,15,17 69:9,10,16,22 72:10 86:9,10 99:8 101:4,18 102:4 108:13,14 Spanish 9:2,13,16 9:21 10:1 13:10 68:3,4,5 71:20 77:17 87:9,12 98:1 109:7 speak 9:15 10:1 83:21 87:11 109:17,20 111:20 speaking 24:14 87:9,10 speaks 65:20 specific 29:16 49:3 49:21 55:15 87:17 90:3	specifically 29:6 56:6 73:19 89:6 speculate 87:14 spell 7:12 8:8 10:17 spent 87:7 spirit 52:17,19 53:9 spoke 87:15 spoken 84:9 spot 74:22 114:21 stability 91:5 stacks 78:10 stand 33:4 start 76:14 98:16 113:7 started 6:4 84:11 starting 82:19 statement 25:14 29:9 57:5 states 1:1 49:22 66:21,22 110:3 112:3 116:3 stats 114:10 stay 89:7 stenographer 4:21 Stewart 2:10 4:10 5:5 6:22 10:6,9 12:14,21 16:7,11 20:14,17 22:19 26:1 27:11 28:16 29:10,12 31:6,18 31:22 32:12 33:12 34:17,18 35:18 36:5,17 37:3 38:4 41:1 42:14 43:5,12 45:4,10 53:13,18 53:20 56:19 57:6 59:7,11,21 60:14 66:2,6 67:17 71:14 74:4,22 75:17 76:13 81:4 81:8 89:9 90:10 90:12,19 94:5 95:1 97:5,15,18 97:19 100:5,18 102:11,14,16 106:20 107:5 108:4,10 112:9 112:16 113:1,5 113:17 114:1,12 114:20 117:5 still 17:5 19:11 26:17 66:16 74:17 80:16 92:11,15 103:9 stop 14:2 25:21 51:2 114:21	stopping 54:9 72:19 stories 38:19 91:5 storing 44:1 story 39:8 94:21,22 strategy 47:4,5 69:8 72:13,18 Street 2:5 3:7 stressed 22:15 struck 92:10 study 20:20 21:2 subject 65:10 88:13 subjects 41:2 submission 85:4 submitted 79:12,14 Subscribed 116:11 subsidiary 34:9 55:7 57:12 68:5,6 69:1,3,20 95:18 substance 62:16 73:17,19 substantial 75:20 suburb 18:20 successful 98:7 suggestion 25:21 90:11 suing 74:9 Suite 3:7 supervision 100:11 100:11 104:15 105:1,21 supply 14:12 supplying 98:17 support 104:10 supposed 86:17 104:20 109:4 sure 13:21 14:18 18:4 40:17 50:1 63:17 64:11 66:20 70:21 71:1 73:10 90:16,16 93:16 108:20 111:9 112:6 survive 48:10 Sweden 40:19 sworn 4:8 33:5 116:11 system 66:16 101:5 101:5 S.A 1:5,6 22:3,4 34:5,9 37:15,19 37:20 45:17 50:18,18,22 52:4 52:4 54:2,14 55:21,22 61:7,17 66:13 67:14
---	---	--	--	---



Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

Page 129

<b>T</b>	telling 42:16 71:9	103:9 110:18	trademark 98:9	23:1 29:1,6 30:8
T 117:1,1,9	tempted 85:8	111:4 114:20	training 63:5 64:2	31:14 36:20
take 5:6 7:15 8:4	ten 75:2 87:21	thinks 24:9	92:16	39:19 43:1,15
9:11 19:15 20:21	110:20	third 9:15 98:9	transcript 116:2,2	47:16 53:17
24:17 30:3 36:7,8	tenth 110:17	99:14	transfer 77:10	54:10,17 57:7
47:18 60:6,22	ten-minute 74:20	though 25:6 90:16	82:18	58:1 59:17 61:2
64:19 90:10	term 42:20 97:8	101:9	transferring 18:1	73:10 86:4 87:13
104:21,22	terms 9:14 20:19	thought 43:3,4 89:5	translate 31:17	91:20 98:13,14
taken 2:2 15:6	43:15 49:3 73:19	90:8	34:17 51:3 54:4	<b>understanding</b>
88:14	73:20 101:22	thousand 99:7	90:15	11:14 23:20
takes 64:13	102:21 103:3,16	three 6:18 9:4	translated 53:7	25:19 34:14
taking 47:3 72:14	105:5,13 106:7	10:22 69:13 77:4	62:14	35:10 48:17 50:5
talk 24:16 25:1,1	106:15 107:7,19	92:13 114:6	translation 13:10	50:6,15 51:15
40:15 47:17	107:20 108:6	through 26:10 39:9	14:4 21:14,16,20	60:9 66:18 68:22
76:15	territory 68:2	64:16 65:21	28:4 112:6	97:14
talked 14:8 33:15	test 6:16	75:21,21 96:16	translator 25:17	<b>understands</b> 93:6
40:21 41:4,9	testified 33:5	114:8,8	51:3 54:4	<b>understood</b> 24:18
83:14 85:6	testimony 4:7 33:8	time 4:3 10:12 17:5	traveled 111:20	53:14 56:22 58:8
101:10,12 102:18	67:16 75:14	19:4,16,19 26:9	treat 46:6	58:13 67:2 73:15
talking 15:22 16:2	101:21 110:10	30:16,19 31:7,8	treatment 8:8	90:17 91:8 93:7
26:20 31:21	115:4 116:3	32:9,15 33:10	true 89:9 90:10	<b>unfair</b> 72:3 74:8
47:14,15 56:2,3	Texier 3:13	38:12,13 39:17	97:7	<b>unfairly</b> 72:14
93:11	text 13:10	42:8 45:18,19	truly 103:11	<b>unhappy</b> 65:6
Tampa 49:17 54:22	Thank 29:11 34:3	46:4 48:20 49:4	trusted 77:15	<b>United</b> 1:1 49:22
tape 32:14 33:7	43:3 45:4 71:17	51:21 56:21 63:2	try 59:17 103:15	66:21,22 110:3
75:9,13 115:3	114:17	63:7 65:7,8 66:9	trying 11:17 23:15	112:2
tax 101:4	their 18:3 47:6	68:17,17,18,18	102:11 106:12	<b>university</b> 46:11,12
teaching 18:3	81:18 86:3	72:16 73:11 75:6	turn 45:4 53:21	94:11
tech 82:17	108:19	75:10,16,20 76:1	56:15 70:3	<b>unless</b> 29:5
technical 44:1 48:1	theophylline 7:11	94:17 95:22	twice 40:8 77:4	<b>unplugged</b> 62:9
48:2 77:6 83:3	7:13,16 99:21	97:22 101:8,18	two 6:1 9:4 10:21	<b>unrespective</b> 67:22
98:11	thing 32:5 87:19	106:16,22 107:4	12:15 18:9 43:18	<b>until</b> 17:5 39:14
technicality 85:21	99:2	107:11 110:17	45:12 49:8 51:19	63:6 76:19 94:7
technician 77:15	things 25:19 30:1	112:18,18 115:6	52:5 60:10,13	107:15
93:10	48:3 53:17 64:1	times 50:2 67:20	64:3 67:11 68:6	<b>upset</b> 91:11
technique 71:22	think 4:12 7:11	77:4 110:19,20	79:1 82:6 92:13	<b>Uquifa</b> 95:17 106:5
92:16	14:21 15:11	title 22:1 41:22	114:6	<b>USA</b> 24:10 51:12
technological 94:1	17:18 20:20	58:2 108:19	<b>type</b> 18:5	58:11,11,22 59:1
technologies 72:7	21:14 23:8,11	titles 57:21	<b>T-h-e-o-p-h-i-l-i...</b>	59:19,19 60:3,4
technology 17:22	25:17 28:3 31:10	today 48:21	7:18	66:5,14 68:7,15
18:2 64:2 76:7	36:12,13 37:5,13	together 53:22	<b>T.J</b> 3:14	68:17 69:13
77:9,19 78:17,17	37:18 38:8,18	114:9		79:21
78:21 79:1 80:22	41:21 46:3 48:12	told 11:9 12:2	<b>U</b>	<b>use</b> 10:20 97:3,8
81:3 83:1 88:3,7	48:19 49:16,17	18:15 25:8 30:10	<b>Uh-huh</b> 11:13	99:12
88:14,16,19 89:2	52:3 53:6,7,13	42:4 45:22 73:17	23:21 33:22	<b>used</b> 8:1 42:8,20
90:4,6,21 91:1,8	55:12 58:4 62:3	104:17 114:15	44:14 61:6	76:7
92:8,11,12 93:2	64:11 65:20,21	tomorrow 114:22	<b>ulcer</b> 80:1	<b>uses</b> 51:6
telephone 14:5	67:15,19 68:8	top 104:20 109:3	<b>ulcers</b> 8:9	<b>usual</b> 12:5 44:4
49:11	69:11,14 71:19	topic 4:15 17:10	<b>unable</b> 53:1 93:19	65:2 66:9
tell 6:3 9:1 21:8	72:19,22 74:2	total 55:7	<b>under</b> 22:1 50:5,14	<b>usually</b> 49:19
23:6 29:1 31:12	77:4,5,6 80:9	totally 72:2 74:8	53:22 100:10,11	<b>utilized</b> 79:4
41:16 43:18 46:9	81:1 82:2 85:9	113:20	104:9,14 105:1	<b>U-q-u-i-f-a</b> 95:18
53:1 58:17 62:20	87:5,10 88:14,22	tough 12:3	105:21 111:14	<b>U.S</b> 24:1 26:4 31:14
64:16 70:7 76:4	91:1,11 93:17	trade 88:4,7,19	<b>undergrad</b> 46:10	31:17,19 32:8
92:20 105:11,12	96:1 98:9,13	89:3,6,12,13,14	<b>understand</b> 10:13	39:11 40:1,2
111:7 114:13,18	99:13 100:1,2	89:14 91:9 92:12	14:1 15:11,19	42:17 43:4 44:22
	101:2,19 102:2	92:12 93:2 94:2	17:11,11 19:17	45:2 46:2 47:20

Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

Page 130

49:13,15,16,18 50:1,3 51:12 55:16 56:7 57:11 57:14,19 59:15 65:17 74:9 84:17 92:22 94:18 103:6 110:5 111:20 112:13	<b>V-i-n-c-a-m-i-n-e</b> 7:22  <b>W</b> <b>Walton</b> 46:12 <b>want</b> 21:18 31:20 34:17 42:3 64:15 65:22 74:17 82:15 90:5,15,15 90:16 98:12 <b>Washington</b> 1:18 2:3 3:8 49:20 <b>wasn't</b> 13:21 78:10 <b>way</b> 24:7 28:18 46:5 48:3 78:2 92:17 98:13 103:15 <b>weight</b> 102:4 <b>welcome</b> 20:20 <b>welcomed</b> 24:11 <b>well</b> 9:10 14:3,21 14:22 19:16 27:17,17 30:22 35:22 39:1 40:14 41:4 44:3 46:9 47:2 48:4 49:1 57:7 64:15,22 65:9 66:8,11 67:18 68:14 69:18 73:3 75:21 78:21 80:15 81:1 87:6 88:13 89:22 93:10 94:21 95:9 96:19,22 98:12 102:18 <b>went</b> 26:10 49:17 49:19 53:11 78:8 87:6 <b>were</b> 2:7 7:2,6 8:5 13:21 15:8,8 17:21 18:1,6 19:21 20:2 22:16 22:17,20 24:13 26:7,13,15,20 27:1,12,15 32:7 35:1 36:21 37:15 38:1 39:6,7 46:6 46:17 47:2,5 48:15 49:10 50:12 56:3 62:21 63:22 64:1,4,5,17 65:1,6 69:15 70:7 70:19 71:2 72:7 81:19 82:17 86:16 88:14 89:7 89:18 90:8 91:14 91:16 92:6 94:10	96:6 97:1,2 99:17 100:8 106:7 108:17,22 109:4 109:8 110:4 112:1,3,18 113:6 113:8 <b>weren't</b> 85:22 <b>We'll</b> 56:15 86:6 <b>we're</b> 4:11 5:21 16:2 18:4 38:8 53:3 55:14 74:19 94:8 101:3 <b>we've</b> 5:7 34:8 63:13 90:3 110:13 <b>while</b> 12:3 78:15 <b>whole</b> 69:5 79:5 80:4 <b>wider</b> 91:7 <b>wife</b> 68:10,12 94:10 <b>wife's</b> 95:2 <b>withdraw</b> 21:7,7 27:18 34:13 37:11 73:13 88:16 113:6 <b>witness</b> 5:8 10:8 16:9,10 21:3 28:14,15,22 29:11 30:22 32:11 35:22 36:12 37:19 43:11 45:9 59:17 66:3 67:18 71:18 74:2 75:4 81:5 89:16 90:14 94:6 96:19 99:10 100:17 106:14 108:1,9 112:12 113:3,18 117:3 <b>witness's</b> 59:7 <b>word</b> 42:22 <b>words</b> 41:4 103:14 <b>work</b> 29:22 37:13 39:20 43:22 80:5 80:11 92:4 94:15 94:19 97:1 98:3,4 98:14,15,18 99:11 <b>worked</b> 94:12 <b>worker</b> 44:4 <b>working</b> 39:21 47:6 48:12 55:3 63:15 64:9 77:14 84:11 92:15 94:7 110:4 <b>works</b> 79:15,16 <b>world</b> 80:2,10 <b>Worldwide</b> 81:22	82:1 <b>worry</b> 73:3 <b>worth</b> 64:11 80:7 <b>write</b> 9:5 <b>writing</b> 8:20 9:1 60:19 62:14 <b>written</b> 9:14 63:14 64:8 72:6 <b>wrong</b> 52:7 72:2 112:7 113:21 <b>wrote</b> 64:3 72:4  <b>X</b> <b>x</b> 1:4,12 116:7,16 117:9 <b>XYZ</b> 109:9,9 111:12  <b>Y</b> <b>yeah</b> 8:13 20:10 30:8 58:12 93:16 94:5 105:8,19 <b>year</b> 45:20 99:18 <b>years</b> 6:1,18 17:9 39:4,8 40:5 42:7 64:14,22 69:13 80:18 84:13 87:7 87:9,21,22 92:14 101:6 <b>yesterday</b> 14:6 <b>York</b> 49:20 <b>young</b> 77:8,13 78:12 90:15  <b>Z</b> <b>Zaragoza</b> 16:20 18:10 27:21 28:6 29:21 35:2,3 77:5 77:11 83:4 91:19 91:22 92:4 109:14  <b>\$</b> <b>\$2000</b> 96:4 <b>\$4000</b> 94:18  <b>0</b> <b>009009</b> 61:4 <b>009083</b> 50:8 <b>02199</b> 2:14 <b>04-1300</b> 1:8  <b>1</b> <b>1</b> 32:14 63:11 115:4 <b>1:13</b> 32:17 <b>10</b> 1:19 2:3 11:22 28:10 33:10	56:18,20 60:6 62:15 64:14 75:16 93:17 115:6 117:21 <b>10th</b> 33:18 <b>100</b> 57:15 <b>1000</b> 12:1 81:20,21 103:18 <b>11</b> 115:9 <b>111</b> 2:13 <b>12</b> 117:14,15 <b>12th</b> 35:16 <b>12:05</b> 2:5 <b>12:05:15</b> 4:4 <b>1201</b> 2:4 3:7 <b>13</b> 42:7 56:17 <b>13:13:56</b> 32:15 <b>135</b> 82:5 <b>14</b> 42:7 64:7 <b>14th</b> 12:18 <b>14:22:35</b> 33:10 <b>14928046</b> 51:6 <b>15</b> 17:9 45:5 63:9,9 64:7 84:13 87:21 <b>15:49:49</b> 75:6 16 64:7 <b>16:08:46</b> 75:10 <b>16:14:48</b> 75:16 <b>1628004</b> 54:8 61:9 17 64:7 <b>17:12:29</b> 106:22 <b>17:36:41</b> 107:4 <b>17:51:35</b> 115:7 18 63:9,9 <b>1991</b> 5:1,2,12,22 6:12,19 8:14 12:10,17,19 14:16 16:13 27:2 27:5,22 75:20 <b>1992</b> 16:21 20:9,13 27:7,12 28:10 31:11 34:14 <b>1993</b> 35:16 39:9 43:6,7 <b>1994</b> 39:9 <b>1995</b> 45:5 56:17,21 60:16 96:16 <b>1996</b> 23:19 <b>1999</b> 71:19  <b>2</b> <b>2</b> 1:16 4:22 5:4,7 8:19 33:8 75:9 117:13 <b>2:15</b> 32:18 33:1 <b>20</b> 12:16 87:21 116:12 117:16
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Patrice Debregeas - July 10, 2006  
 Ethypharm S.A. France and Ethypharm S.A. Spain v. Bentley Pharmaceuticals, Inc.

Page 131

2000 94:15 95:5	8:30 94:7			
20004 3:8	850 82:3			
2001 74:3 91:12				
2002 74:3 75:22	9			
81:19 96:17	9 11:22 45:7,8 94:7			
2003 82:4	117:20			
2004 82:5	9-1 61:18			
2006 1:19 2:3 33:10	9/10 11:8			
75:16 115:6,10	9:00 114:22 115:9			
202-833-8900 3:9	900 82:3			
21 54:16	9008 66:4			
25 87:21	9010 63:13			
26 20:9	91 28:8			
26th 20:13	92 33:18,19 34:1			
28 117:17	94 76:19			
	98 69:14,15			
3	99 69:14			
3 12:20 13:1,2,3,5				
13:14,18 75:14				
115:3 117:14				
30 18:22 80:18				
35 117:18				
4				
4 12:17,20 13:2				
15:17,18 28:1,3,7				
43:6,7 47:22 48:1				
117:5,15				
43 117:19				
45 79:20 117:20				
47 79:20				
5				
5 20:15,16 21:8,13				
117:13,16				
5:51 115:8				
500 3:7				
56 117:21				
6				
6 11:6,12 28:13				
33:21 34:5				
117:17				
617-239-0100 2:15				
7				
7 35:17,20 37:11				
41:14 82:6,9				
117:18				
700 82:8				
77 94:9				
78550 54:16				
8				
8 39:6 43:10,19				
117:19				
8th 5:2,12				

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF DELAWARE

3 - - - - - X Volume III

4 ETHYPHARM S.A. FRANCE and : Transcript

5 ETHYPHARM S.A. SPAIN, : Video Vol. II

6 Plaintiffs, :

7 v. : C.A. No.

8 BENTLEY PHARMACEUTICALS, INC., : 04-1300-SLR

9 Defendant. :

10 - - - - - X Pages 1-187

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12

13

14 VIDEOTAPE DEPOSITION OF PATRICE DEBREGEAS

District of Columbia

15 Tuesday, July 11, 2006

16

17

18

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20

21 Reported by: Marijane Simon, RDR, CLR

22 Job No. 6734



<p style="text-align: right;">Page 2</p> <p>1</p> <p>2</p> <p>3 July 11, 2006</p> <p>4 9:11 a.m.</p> <p>5</p> <p>6</p> <p>7 Deposition of PATRICE DEBREGEAS held at the law</p> <p>8 offices of Baach, Robinson &amp; Lewis:</p> <p>9</p> <p>10</p> <p>11 1201 F Street, NW</p> <p>12 Suite 500</p> <p>13 Washington, D.C. 20004</p> <p>14</p> <p>15</p> <p>16 Pursuant to notice, before Marijane Simon,</p> <p>17 Registered Diplomate Reporter, Certified LiveNote</p> <p>18 Reporter, and a Notary Public in and for the</p> <p>19 District of Columbia.</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES (Continued):</p> <p>2</p> <p>3 Also Present:</p> <p>4 T.J. O'Toole, Videographer,</p> <p>5 Esquire Deposition Services</p> <p>6 1020 - 19th Street, NW</p> <p>7 Suite 620</p> <p>8 Washington, DC 20036</p> <p>9 (202) 429-0014</p> <p>10</p> <p>11</p> <p>12 Interpreter Valerie Texier</p> <p>13 Bill Guertner, Baach, Robinson &amp; Lewis</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 For the Plaintiffs:</p> <p>4 Dwight P. Bostwick, Esq., and</p> <p>5 Bruce R. Grace, Esq.</p> <p>6 Jonathan D. Fine, Esq.</p> <p>7 BAACH, ROBINSON &amp; LEWIS</p> <p>8 1201 F Street, NW, Suite 500</p> <p>9 Washington, DC 20004</p> <p>10 (202) 659-6744</p> <p>11 (202) 466-5738 (Fax)</p> <p>12 dwight.bostwick@baachrobinson.com</p> <p>13</p> <p>14 For the Defendant:</p> <p>15 Craig E. Stewart, Esq., and</p> <p>16 Veronica C. Abreu, Esq.</p> <p>17 EDWARDS, ANGELL, PALMER &amp; DODGE, LLP</p> <p>18 111 Huntington Avenue</p> <p>19 Boston, MA 02199</p> <p>20 (617) 239-0100</p> <p>21 (617) 316-8406</p> <p>22 cstewart@eapdlaw.com</p>	<p style="text-align: right;">Page 5</p> <p>1 CONTENTS</p> <p>2 EXAMINATION OF PATRICE DEBREGEAS: PAGE</p> <p>3 BY MR. STEWART 10</p> <p>4 BY MR. BOSTWICK 138</p> <p>5 BY MR. STEWART 158</p> <p>6</p> <p>7</p> <p>8 DEPOSITION EXHIBIT: Page Identified:</p> <p>9 11 Contrato de Fabricacion Por Terceros</p> <p>10 de Productos Farmaceuticos,</p> <p>11 BEL006381 - 388 16</p> <p>12 12 Contrato de Fabricacion Por Terceros</p> <p>13 de Productos Farmaceuticos,</p> <p>14 BEL006372 - 379 with English</p> <p>15 translation 16</p> <p>16 13 Notes and Contrato de Fabricacion</p> <p>17 Por Terceros de Productos</p> <p>18 Farmaceuticos, BEL006371 - 396 with</p> <p>19 last page in English 16</p> <p>20 14 Fax, 2/24/02, De Basilio to</p> <p>21 Debregeas, EP 002199, with</p> <p>22 English translation 21</p>

2 (Pages 2 to 5)

**ESQUIRE DEPOSITION SERVICES**  
**1-866-619-3925**

JT-A-369

<p style="text-align: right;">Page 6</p> <p>1 CONTENTS (Continued)</p> <p>2</p> <p>3 DEPOSITION EXHIBIT: Page Identified:</p> <p>4 15 Contrato de Fabricacion, with</p> <p>5 English translation, EP 002919 -</p> <p>6 nonconsecutive Bates numbers 24</p> <p>7 16 Contrato de Compromiso de Compra,</p> <p>8 with English translation, EP 002921</p> <p>9 and A-97 and A-96 24, 36</p> <p>10 17 Letter, 11/14/01, Herrera to De</p> <p>11 Basilio, EP 002928, with English</p> <p>12 translation 38</p> <p>13 18 Contrato de Fabricacion de Vincamina</p> <p>14 Migrogranulos, EP 008113 - 116 with</p> <p>15 English translation 42</p> <p>16 19 Contrato de Fabricacion de Aspirina</p> <p>17 Migrogranulos, EP 008108 - 111 with</p> <p>18 English translation 43</p> <p>19 20 Contrato de Fabricacion de Proxicam</p> <p>20 Migrogranulos, EP 008103 - 106 with</p> <p>21 English translation 43</p> <p>22 ...</p>	<p style="text-align: right;">Page 8</p> <p>1 CONTENTS (Continued)</p> <p>2</p> <p>3 DEPOSITION EXHIBIT: Page Identified:</p> <p>4 29 Letter, 1/20/97, de Basilio to</p> <p>5 Gonzalez, EP 006617, with English</p> <p>6 translation 93</p> <p>7 30 Letter, 1/27/97, de Basilio to</p> <p>8 Gonzalez, EP 006615 - 616, with</p> <p>9 English translation 97</p> <p>10 31 Fax letter, 1/28/97, Jim to Patrice</p> <p>11 EP 002450 - 451 100</p> <p>12 32 Fax letter, 2/14/97, Dubois to</p> <p>13 Murphy, EP 004676 - 682 plus</p> <p>14 Stratify Document Cover Page 109</p> <p>15 33 Fax Letter, 8/4/97, ? to Jim</p> <p>16 EP 002455 with English translation 114</p> <p>17 34 Letter, undated, Murphy to Dubois</p> <p>18 EP 002445 115</p> <p>19 35 Fax, 4/8/99, Rodriguez to Joannesse,</p> <p>20 EP 009112 - 119 with English</p> <p>21 translation 117</p> <p>22 ...</p>
<p style="text-align: right;">Page 7</p> <p>1 CONTENTS (Continued)</p> <p>2</p> <p>3 DEPOSITION EXHIBIT: Page Identified:</p> <p>4 21 Contrato de Fabricacion de</p> <p>5 Indometacina, Migrogranulos,</p> <p>6 EP 008098 - 8101, with English</p> <p>7 translation 43</p> <p>8 22 Letter, 2/1/02, Debregeas and Leduc</p> <p>9 to Herrera, EP 04846 - 847 55</p> <p>10 23 Letter, 2/6/02, Herrera to</p> <p>11 Debregeas, BEL009904 55, 57</p> <p>12 24 Letter, 2/11/02, Debregeas to</p> <p>13 Herrera, EP 004845 55-57</p> <p>14 25 Letter, 11/14/01, Herrera to</p> <p>15 de Basilio, BENTL008366-365 78</p> <p>16 26 Email, 3/21/02, Joannesse to</p> <p>17 Herrera, EP 008591 80</p> <p>18 27 Email, 10/15/02, Joannesse to</p> <p>19 Debregeas, EP 008698 - 8704 86</p> <p>20 28 Confidentiality Agreement, Belmac</p> <p>21 Corp. and Ethypharm, EP 002533 -</p> <p>22 535 and 532 88</p>	<p style="text-align: right;">Page 9</p> <p>1 CONTENTS (Continued)</p> <p>2</p> <p>3 DEPOSITION EXHIBIT: Page Identified:</p> <p>4 36 Fax letter, 4/9/99, Debregeas from</p> <p>5 Bentley, EP 002813 - 821 124</p> <p>6 37 EP 9105 - 109 with English</p> <p>7 translation 132</p> <p>8 38 Fax, 11/1/01, Alvarez de la Gala to</p> <p>9 Eric Cailleret, EP 002917 -</p> <p>10 nonsequential Bates numbers 135</p> <p>11 39 Letter of Intent, EP 009199 152</p> <p>12</p> <p>13</p> <p>14 EXHIBIT PREVIOUSLY MARKED</p> <p>15 1 Complaint 73</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

3 (Pages 6 to 9)

<p style="text-align: right;">Page 10</p> <p>1 PROCEEDINGS</p> <p>2 * * * * *</p> <p>3</p> <p>4 THE VIDEOGRAPHER: On the record with</p> <p>5 Tape No. 1 of Volume II of the testimony of</p> <p>6 Mr. Patrice Debregeas in the matter of Ethypharm</p> <p>7 v. Bentley. Our court reporter today is Marijane</p> <p>8 Simon representing Esquire Deposition Services.</p> <p>9 The witness and the interpreter were sworn in</p> <p>10 yesterday and remain under oath.</p> <p>11 EXAMINATION BY COUNSEL FOR THE DEFENDANT</p> <p>12 BY MR. STEWART:</p> <p>13 Q. Good morning, Mr. Debregeas.</p> <p>14 A. Good morning.</p> <p>15 Q. I had just a -- one or two questions</p> <p>16 following up from something we talked about</p> <p>17 yesterday. Is it correct that in order to market</p> <p>18 pharmaceutical products in Spain -- that Ethypharm</p> <p>19 needed authorization from the Spanish Ministry of</p> <p>20 Health?</p> <p>21 A. The Spanish authorities require that</p> <p>22 you have that is called a fecha. That means an</p>	<p style="text-align: right;">Page 12</p> <p>1 fecha corresponds not only to an administrative</p> <p>2 authorization but correspond to a complex setup</p> <p>3 organization, including type of building,</p> <p>4 circulation of people, circulation of goods, and</p> <p>5 this is one of the things that we brought to</p> <p>6 Rimafar -- Rimafar was not having all the setup</p> <p>7 complete and we brought all these raiments to</p> <p>8 Rimafar.</p> <p>9 And in 1997 we conducted an audit,</p> <p>10 internal audit, of Laboratorios Belmac and we</p> <p>11 discovered that the certain number of points were</p> <p>12 missing or inadequate although we had given Belmac</p> <p>13 the proper instructions, the proper procedures,</p> <p>14 recommendations. And that led to a crisis in -- I</p> <p>15 think in 1997. And that led to a threat of</p> <p>16 termination of the agreement between Laboratorios</p> <p>17 Belmac and Ethypharm.</p> <p>18 Q. I didn't ask you to provide the</p> <p>19 history of -- of the dis -- of -- of the audit,</p> <p>20 did I, in my question?</p> <p>21 A. You did not but I think the concept of</p> <p>22 fecha -- You get an authorization. It's a sheet</p>
<p style="text-align: right;">Page 11</p> <p>1 official recognition that you're a pharmaceutical</p> <p>2 company.</p> <p>3 Q. Could you spell --</p> <p>4 A. Fecha.</p> <p>5 Q. -- fecha? Fecha. Okay.</p> <p>6 A. F-e-c-h-a, fecha.</p> <p>7 Q. And there was a requirement under --</p> <p>8 Was there a requirement under Spanish law that, at</p> <p>9 least as in -- as of the early 1990s -- that</p> <p>10 manufacturing must be done by a Spanish company?</p> <p>11 A. Yeah, right. Yeah, right.</p> <p>12 Q. And to your knowledge, Labora --</p> <p>13 Laboratorios Belmac had the official recognition</p> <p>14 from the Spanish Ministry of Health as an approved</p> <p>15 manufacturing company; is that correct?</p> <p>16 THE INTERPRETER: I'm sorry. Can --</p> <p>17 Can you repeat the question, please.</p> <p>18 THE REPORTER: "And to your knowledge,</p> <p>19 Laboratorios Belmac had the official recognition</p> <p>20 from the Spanish Ministry of Health as an approved</p> <p>21 manufacturing company; is that correct?"</p> <p>22 THE WITNESS: Yeah, right. And this</p>	<p style="text-align: right;">Page 13</p> <p>1 of paper but this is the result of inspections</p> <p>2 conducted by the authorities, inspection conducted</p> <p>3 by the company itself.</p> <p>4 Q. No doubt in your mind that Labora --</p> <p>5 Laboratorios Belmac had the fecha from the Spanish</p> <p>6 Ministry of Health?</p> <p>7 A. For sure, but a fecha is something</p> <p>8 that you don't obtain for life.</p> <p>9 Q. Understand.</p> <p>10 A. You have to be always corresponding to</p> <p>11 the regulation and specification.</p> <p>12 Q. I understand.</p> <p>13 A. That means that you have regular</p> <p>14 inspections by the authorities who, first of all,</p> <p>15 look at your internal audits to see if everything</p> <p>16 is maintained and is -- all the operations are</p> <p>17 done according to regulation so that means that</p> <p>18 you may lose your fecha from one day to another</p> <p>19 unless you are within the specification with -- of</p> <p>20 the -- of the -- of the law.</p> <p>21 Q. And Laboratorios Belmac, to your</p> <p>22 knowledge, never lost the fecha, did it?</p>

4 (Pages 10 to 13)